

Christopher A N Russell
INTRODUCTION

To the KNOWLEDGE of the

Stile of Writs,

Simple and Compound,

Made Use of in

SCOTLAND;

CONTAINING

Directions for Drawing

SECURITIES,

In CASES which most commonly occur :

With Examples,

ACCORDING TO

The best Modern Practice.

*Written for the Use of the Students in Spotiswood's
Colledge of Law, and now Publish'd for the Common Good.*

By John Spotiswood of that Ilk Advocate.

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Art of Writing

Simple and Compound

Made Use of in

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PREFACE

FOR the use of the Gentlemen, I some time ago Directed in the Study of the Scots-Law, I did draw out of my Collections I had made, while in a Writing-Chamber; and in the practice of Business both before and since I was an Advocate, such of my Observations as I thought might Instruct them in the Knowledge of the Stile of Obligations, Securities and Conveyances; and put them in that Order and Method they are now Printed in, for the Use of the Publick.

The Directions, I have given for drawing Writs, are not from speculative Notions; but from Remarks and Observations taken from the Writs themselves; and Approven by my own Experience: For I was near six Years in a Writing-Chamber, in continual Practice; under the Direction of the ablest Writer and Conveyancer of the last Age, James Hay of Carribber, Writer to the Signet; who, for his Skill and Integrity, was Employed by the Chief of our Nobility and Gentry (and I have known many come from their ordinary Writers, to employ him in their highest Concerns, while the meaner Matters, were still left with their Ordinaries,) The Stiles I have given, are for the most part of Mr. Hay's proper Dictating, in modern Occurrences.

In composing this Treatise, I look'd into the Method of Writers in this kind, both English, French, Dutch

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and Latin; But finding in them only a bare and naked Stile in two or three Cases, I thought that Method very jejune, and found it did not answer my Purpose, which was in a Scientifick and Rational way to teach my Students the Art of Writing. For which end I did lay down Rules taken from my own Observations; both while I was with Carribber, and since my return from the Study of the Laws in foreign Universities: In this I had no precedent, save some hints I took from Esqr. West's Symbology: And therefore, my wanting of a Guide, will excuse the boldness in venturing to reduce into Rules, and in Fashioning into a scientifick Form, what was look'd on hitherto to be incapable of Rule, and only acquirable as a mechanical Art, by Practice. This Novelty must plead and obtain Pardon for the Escapes I may have made, which upon Advice shall be Rectified, if this come to a second Edition; and in the mean time the Reader may with his Pen help what he finds amiss; for which end I caused make the Margine of the Book the larger.

Finding this Treatise was like to swell up to a greater number of Sheets, than at first Undertaking I design'd for it, I was forc'd to contract, near the end, my Course of Thought and Design: However, in this Part you have, if I mistake not, a full Treatise of Bonds, and other personal or temporary Rights and Conveyances of all sorts. I thought to have Treated briefly of the Conveyance of Irredeemable Rights, Real and Perpetual, as of Lands, Tenements and Pertinents thereof; But finding that my Collections on that Subject, would make a Treatise near as big as this, and that I could

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not, to my own satisfaction, Abridge them; I was advised to refer that Matter to another Opportunity. And if this Undertaking be agreeable to the Publick, they may very shortly expect, a full and compleat Treatise of Real Rights and Conveyances of all sorts; which is very near ready for the Press.

This part of the Law, concerning the Stile of Writs, may be Treated of in various Ways, as in my Lectures I shew'd to the Students, in Scots Law. For, besides the Way set down in this Treatise, I pointed out to them the essential and accidental Clauses of the several sorts of Writs and Conveyances; and this I called the Analytical Way. For illustration whereof, I gave them several Stiles Analys'd, which is as useful to a Writer, as a Sceleton and Anatomy Tables and Carts, is to a Student of Medicine. For when a Lawyer is to consider and read a Paper, he looks first on the Schem of that Writ as Analys'd, where at a glance he has a full view of all the necessary Clauses of the Writ, and in reading the Paper to be considered, he notices particularly if these be rightly Expressed, and if any of them be wanting. Another way, I called the Nomological, which did illustrate and shew the import of the Clauses in Writs, by Observations taken from the Practick and Decisions: Both which Ways, are the Subject of another Work, whereby great Light will be given to the Art of Writing.

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Extra-judicial. }

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Of Bonds,

ibid.

In every Obligation there is a { Creditor.
and
Debitor. }

p. 2

There be many sort of Bonds,

ibid.

This variety occasioned by the state of the Debitor who is a

{ for themselves
or
single Person } for others { Factor for his Constituent,
or
a Society } Tutor for his Pupil.
or
with consent of others { Minor with consent of his Curator,
or
Wife with consent of her Husband.

Whether the Debitor be a { one } and { with } a { one }
single Person or Society, he { or } these { or } Cautioner { or }
is consider'd as Principal, { many } without { many }

{ 1 To his own behoof, extending to } his Heirs or Assignneys
or
his own Heirs only,
or
neither Heirs or Assignneys.

Variety of Bonds occasioned by the state of the Creditor, who if a single Person, takes the Bond.

{ 2 For the behoof of another, as to }
1 Tutor.
2 Curator.
3 Factor.
4 Administrator as
Treasurer or Box-master of Incorporations.

{ 3 For himself and another, as to a }
Parent and Child,
or
Husband and Wife.

Variety from the cause of { payment of Money,
or
the Obligation, as } performance of Deeds.

p. 3

Variety from the nature of the Security in the Bond, as { Simple
or
Compound } and both these { Personal,
or
Real.

And all Obligations what-ever, { full and Substantial,
or
are either } shortned and Abridg'd.

†† This Table may be apply'd to all other Rights.

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F I N I S.

AT Edinburgh, the twentieth day of November One thousand seven hundred and seven Years; Anent the Petition given in and presented to the Lords of her Majesties Privy Council, by Mr. John Spotiswood of that Ilk Advocate, shewing, That the Petitioner had Composed and fitted for the Press, The Books following, to wit, An Introduction to the Knowledge of the ~~Stile~~ Stile of Writs, Simple and Compound, containing Directions for drawing Securities, in Cases which most commonly occur: With Examples, according to the best Modern Practice. For the Use of the Students of the Scots-Law. As also, The Form of Writs before the Lords of Council and Session, according to the present Practick. To which is prefix'd an Account of the present State of the Colledge of Justice; and of the Order in Judging observed by the Lords of Session. For the encouraging the Impression of which Books, Craving to the effect after-mentioned, as the said Petition bears: The Lords of her Majesty's Privy Council having Considered the said Petition given in to them by Mr. John Spotiswood Advocate, and the same being read in their Presence; The said Lords do Grant to the Petitioner, his Successors and Assignes, during Nineteen Years, The sole Privilege of causing Print and Sell the above Books: And hereby Prohibite and Discharge, all Printers, Booksellers, Merchants and Others whatsoever, during the time foresaid, To Print within Scotland, any other Impression of these Books, then what the Petitioner shall cause Print: With Certification, that the Impression and Copies, shall not only be Seised upon by any Magistrate without any Process of Law, to be Confiscate to the Petitioners use and behoof; but also, the Printers shall be Fined in Two hundred pounds Scots, whereof the one half to the Informer, and the other half to the Poor. Extracted by me,

Ro. Forbes Clk. Sti. Conf.

*An Introduction to the Knowledge of the
Stile of Writs, Simple and Com-
pound, made use of in Scotland.*

SEEING none can fully Understand, or surely Practise the Law, unless they know the Form and Nature of Writs and Securities ; an Explanation thereof ought to be made to the Students of the Laws.

These Writs are either Judicial, or Extra-judicial. Judicial, are these which relate to Processes, as the Claims, Summonses, Petitions, Exceptions and Defences of Parties, with the Sentences and Orders of the Judges upon them, &c.

Extra-judicial Writs, are perfected out of Judgment ; but more chiefly such as declare the voluntary Agreement of Parties, their Bonds and Obligations, and Conveyances, Acquittances and Discharges, &c. whether the Subject and Matter mentioned therein, be depending in Judgment and Plea before any Court, or not.

The First and most frequent of Extra-judicial Writs, is a Bond or Obligation, which may be called, The Foundation and Ground of all others : For Bonds occasion other Securities, and upon them Diligences, Action, Execution are founded, and the Conveyance of all these give rise to many various Forms of Writs.

Not troubling you with the nice Definition and Division of Bonds given by the Emperor *Justinian*, and the Doctors of the Civil Law ; let it suffice, at this time, to tell you, That by a Bond or Obligation is here mean't, a formal Writing in Paper or Parchment, duely Sign'd, whereby a Person acknowledges himself to be Owing and Addebted to another, a certain Sum or other Thing, and obliges himself to pay the Money, deliver the Thing, or perform the Deed. In which Obligations, beside the Parties Names, are to be considered, the Sum, Thing, or Deed due ; the Time, Place, Manner of Payment, Deli-

very or Performance; and sometime a Sum, in name of Penalty, to be paid.

In every Obligation there are Two Parties; one is called the Creditor, the other the Debitor; and by diverse other more special Names, according to the diverse and sundry Forms of Obligations and Contracts.

The Creditor is he, to whom any thing is due by Obligation.

The Debitor is he, who is bound.

Bonds are divided into many kinds: And this Variety in the Stile and Form (for nothing beside that, is here to be understood) proceeds from the Quality of the Debitor, or of the Creditor, or of the Thing which enters into the Obligation, or of the Security propos'd.

With respect to the Debitor, Bonds are granted by single Persons, or by Societies and Incorporations.

When granted by single Persons, there is one Principal, or many Principals; or, one or many Principals, with Cautioners one or many.

These single Persons grant the Bond for themselves, or for or with Consent of another; as are, Bonds given by a Tutor for his Pupil; By a Minor, with Consent of his Tutors; By one Interdicted, with Consent of the Person to whom he is interdicted; By a Wife, with Consent of her Husband, in order to affect her Heritage; By a Factor, for his Constituent.

The Form of Bonds is various, with respect to the Creditor, who is either a single Person, and takes the Bond to himself, and for his own behoof; and these terminat in the Creditor's own Person, or are extended to his Heirs or Assignes, with or without Limitation; and these Heirs are nominated or substituted one after another, or not: Or, the same Creditor acts in the Name, and for the Behoof of another; such as, Bonds granted to Tutors or Curators, in name of the Pupil and Minor; To a Factor, in name of his Constituent; To a Magistrat or Treasurer of a Burgh, in name of the Community; To an Administrator, or Box-master of an Incorporation, in name of the Incorporation; To a Parent, for himself, and in name and behalf of a Child; To a Husband and Wife, in conjunct Fie and Liferent.

The Stile of the Bond varies, through the Nature of the thing which enters into the Obligation, or of the Cause of Granting the Bond; and which are so many, as cannot well be enumerated.

rated. Now Bonds, with respect to their Cause, are either for payment of Money; or for performance of a Deed stipulated to be done. Again, Bonds for payment of Money, are either Gratuitous, as Donations, or Provisions to Children; or they are Onerous, as for borrowed Money, for Price of Goods moveable or immoveable, or Annual Pensions.

The Nature of the Security propos'd by the Debtor, occasions great variety of Stile of Bonds, which is either Simple or Compound: All Simple Bonds are only Personal; but Compound Obligations are either Real, or Personal only, or with and under certain Conditions and Provisions, or without them. The Real Bonds contain Security, either in Immoveables, as Lands, Tenements, &c. and are better known by the name of Heretable Bonds; or they give Security in Moveable Goods, and they contain both Real and Personal Security; for, regularly, there are none which are simply Real, seeing all Bonds whatever, are in some part Personal, binding the Person of the Granter to perform one thing or other.

By Simple Bonds is meant, such as contain only the Essential and Ordinary Clauses of a Bond, as will appear in the Stile of a Bond for borrowed Money. And by Compound Bonds is signified, These that, beside the ordinary Clause, comprehends sundry others, as Provisions and Conditions, other Obligations or Assignations for further Security, and the like.

Personal Bonds are these, wherein the Creditor satisfies himself in the Person and Promise of the Debtor, and follows his Faith, looking on him as a Man of Honesty and Ability, *i. e.* That he is Willing and Able truly to Perform what he is bound to. On the other hand, Bonds Real are these, wherein the Creditor, for his further Security and more sure Payment of the Debt, is put in the Right of the Debtor's Goods and Estate, either Moveable or Immoveable; which Goods are impignorated to the Creditor, and his Right therein endures till the Debt be paid.

All those sorts of Bonds, are either Full and Substantial, which have the ordinary Clauses wholly exprest, and are either in a Paper by themselves subsisting in their own Form, and in that respect may be called Simple Bonds, because not join'd with other Writs: Or otherwise, though they be in

their full Stile, and at length exprest; yet they are in the bottom of another Writ, which is the principal one, and gives Denomination to the Paper: Or, Bonds are abridged and shortened, which for the most part are so dealt with, to make the Conveyance to which they are adjected, the shorter; for regularly the Stile of Abridged Bonds, is never used, except in Compound Writs, as in Dispositions, Contracts, &c.

The Essential and Peculiar Parts of an Obligation are, The Debitor, the Creditor, the Cause of Granting the Obligation, the Time and Manner of Performance. For no Bond can be without these.

We shall begin with these, for payment of Money; which are for either Causes Onerous or Gratuitous: Of the first sort the chief are, Bonds for borrowed Money.

The Form of a Bond for borrowed Money, by one who is Principal without a Cautioner, to another for his own behoof, of the most simple kind, is this.

I A. by these Presents grant me to have instantly Borrowed and Receiv'd from B. the Sum of 1000 Pound Scots Money; where-with I hold me well contented and satisfied, and Exoner and Discharge him and his Successors of the same, Renouncing all Exceptions that can be proponed or alledg'd in the contrair, for ever. Which Sum, with the ordinary Annualrent thereof, from the date of these Presents, to the Term of Payment under-written, I bind and oblige me, my Heirs and Successors whatsoever, thankfully to Content, Repay, and again Deliver to the said B. his Heirs, Executors or Assignes, betwixt the Date hereof, and the Feast and Term of Whitsunday next to come in the Year 1705. with a 100 Pound, Money foresaid, of liquidat Expense, in case of Failie: Together also, with the due and ordinary Annualrent of the said principal Sum, conform to the Acts of Parliament, and Custom of this Kingdom, Yearly, Termly, Monthly, and proportionally so long as the same shall happen to remain unpaid, after the Term of Payment foresaid: Without prejudice of Suiting Execution hereupon, then, or at any time thereafter, without Requisition; And that these Present may be Registered in the Books of Council and Session, or in the Books of any Judicatory Competent, within this Kingdom to have the Strength of a Decreet of any of the Judges thereof, interponed thereto; that Letters of
Hor.

Having on six days, and other Execution in form as aforesaid, may pass hereupon. I Constitute

Procurators, &c. In witness whereof (written by C.) I have Signed these Presents at Edinburgh the 7. day of January 1705. Years before these witnesses D. and E.

Sign'd A.

Sign'd D. Witness.

E. Witness.

The Bond may be divided into Four Parts; I. The receipt of the Money, which is sub-divided into 3 Sections. II. The Obliment to re-pay it, which is under-divided into 8 parts. III. The Clause of Registration. And, IV. The Subscription, which makes mention of the Writer, Date and Witnesses Names, according whereunto the Bond is signed.

But because this Form may be thought to contain Clauses unnecessary and superfluous, tho' in daily practice, I give a Bond of a more compendious Stile.

I A. oblige me and my Successors, to pay at Whitsunday next, to B. his Heirs or Assignees, the Sum of 1000 Pound Scots of borrowed Money, under the Penalty of 100 Pound; with the ordinary Annualrent of the said principal Sum, from the date hereof, during the not payment. Follows the Clause of Registration and of Subscription, as before.

The Stile of Bonds granted by many Principals, do not much differ from that granted by one: For where the Name of one Principal was expressed, the Names of two are set down, which is in the beginning of the Bond, and in the following parts of it: In place of the Singular *I, Me* and *Mine*, the Plural *We, Us* and *Our* are used; only in the Obligatory part, the Words *Conjunctly* and *severally* are adjected, thus, *Which Sum We the said A. and B. bind and oblige Us, conjunctly and severally, Our Heirs and Successors whatsoever, &c.* If these Words, *Conjunctly* and *severally*, were not added, each Principal would only be liable *pro rata portione* of the principal Sum, i. e. for his equal share. It is otherways in the Civil Law.

The Stile of Bonds granted by a Principal and a Cautioner, do not much differ from the Form above set down, except that the Cautioner's Name is only expressed in the Obligatory part of the Bond, and in that he differs from the Principal, who gives the receipt of the Money, as being applied to his own use; whereas a Cautioner has no benefit, and is only a Surety to the Creditor. Cautioners may be in Bonds granted by one or many Principals, and in the first part of the Bond, *i. e.* the Receipt, the Stile does not differ. When you come to the Obligatory part, the Stile is thus; *Which Sum I, as Principal, and B. as Cautioner, Sovereignty and full Debtor for and with me, bind and oblige us, conjunctly and severally, &c.* And so proceeds as if they were both Principals; only before the Clause of Registration, some use to insert an Obliment of Relief, by the Principal to the Cautioner, whereof the Stile shall be given, when we come to speak of Bonds of Relief.

The Difference betwixt Bonds granted by many Principals, and these granted by a Principal and a Cautioner, is, The Cautioner is ay look'd on favourably, seing no part of the Money was applied to his use, which is otherways presumed, in the Case of many Principals. 2. If he be charged, he has this Reason of Suspension, which is ay presumed, That if the Debt be any time due, he may alledge, that either the Principal Sum, or all the bygone Annualrents, are paid by the Debtor, and will be allowed a Diligence for recovering the Discharges. 3. If the Words *Conjunctly and severally*, be not in the Obligatory part of the Bond, the Cautioner cannot be charged till the Principal be discuss'd; that is, till the Principal be denounced and registred to the Horn, and his Estate affected by legal Diligence.

If the Bond be granted by one having Right to Lands tailied to him and others, under Provisions irritant, as, *That it should be unlawful to him to contract Debrs, whereby the Lands and Estate might be adjudg'd*; the Clause is adjected, declaring it *should be unlawful for the Creditor to Apprise or Adjndge the Estate tailied belonging to the Debtor, for payment of the Money contain'd in the said Bond*: And I have seen another Declaration, *That it should be no Leisum to the Creditor to use any Execution upon the Bond, personally or really, a-*

gainst

gainst any other Estate belonging to the Debitor, but altogether against some Lands that were particularly therein nam'd, with their Pertinents.

Bonds granted for another, and which oblige not the Signer, but a 3d Party to whose behoof the Money is borrowed, are rare, and very unsure, and almost never occur, yet for Institution's sake, take the following Examples.

A Bond of borrowed Money by a Tutor in name of his Pupil, might be thus, *I A. Tutor Testamentar to B. nominated and appointed by the deceast B. his Father conform to his Testament of the date — By these presents grant me to have borrowed, and in name and for the use and behoof of the said B. my Pupil, to have received from C. the Sum of 1000 lib. Scots Money, wherewith I hold me well contented and Satisfied: And in name of my said Pupil Discharge &c. Renouncing &c. Which Sum of 1000 lib. I as Tutor foresaid bind and oblige the said B. his Heirs and Successors thankfully to content &c. in common Form. In witness whereof &c. I have for, and in name of, my said Pupil Sign'd these presents at —*

Bonds by Factors, in name of their Constituent, and Obligations by Over-seers, or *Prepositi negotiis*, &c. binding the Preponents, shall be spoke of in that Title which treats of Compound Bonds; because the Style of these Writs, contains Narration of others, and have a special Narrative as their Introduction.

If the Creditor would have the Tutor or Factor bound as Cautioners for the Pupil or Constituent, the Stile may be this: *I, as Tutor or Factor foresaid, bind and oblige the said B. my Pupil or Constituent as Principal, and my self as Cautioner, &c. conjunctlie and severallie, and our Heirs, &c.*

Bonds which require the Consent of others, are, such as are granted by Minors with consent of their Curators; By Persons interdicted, with Consent of these to whom they are interdicted; By a Wife, with Consent of her Husband, in order to affect her Heritage. These granted by Persons interdicted with Consent, &c. shall be treated in the Title of Compound Bonds, because they have a Narrative. A Bond by a Minor, with Consent of his Curators, may be in this Form. *I A. with Advice and Consent of B, C, and D, my Curators, grant me to have borrowed, &c. wherewith I hold me well content, &c. and with*

with Consent foresaid discharge, &c. renouncing, &c. which Sum I with Advice and Consent of my Curators above-named, bind and oblige me, &c. in common Form.

These sorts of Bonds, as also these granted by a Tutor for his Pupil, or by a Factor for his Constituent, should have an Obligation to move, and cause the Pupil or Minor at Majority, and the Constituent at his returning to the Kingdom, to Ratify and Renew the Bond.

In relation to Bonds granted by Tutors, or Minors with Consent of their Curators, or by Persons interdicted with Consent, &c. the Creditor should know how many of these Consenters make a *Quorum*, if any be *sine quo non*, and if he be signing: Wherefore it is most fit, that the Nomination be considered by the Writer, who, if he will act surely, must not rely on report of Parties, but look unto, and consider the Nominations: And it were not a miss, tho' the Bond exprest how many are a *Quorum*.

There is very little Security in Bonds of borrowed Money granted by Pupils, Minors, or Factors, &c. whereby another than the Signer, is intended to be bound: But because of necessity, sometime such Bonds are granted; it is fit to take notice, that no Bond of borrowed Money bindeth Minors, except the Money be profitably imploied by them, or by their Tutors or Curators to their behoof, which the Law calls *in rem versam*: If otherwise, the Bonds are revokable and reduceable *ex capite Minoritatis & Lesionis*. Which danger makes these kind of Bonds to be out of Practice; and here they are only set down for Institution's sake.

Bonds Personal for payment of Money by Married Women *stante Matrimonio*, are Null: For during Marriage, no Wife can validly bind her self, even with her Husband's Consent, or tho' the Bond were judicially ratified, albeit with her Husband's Consent she may dispose of her Estate moveable or immoveable. Hence it is, that if an Heire's Wife should dispoise Lands or other Things, with obligation of absolute Warrandice, with Consent of her Husband; tho' the Disposition be valid, yet the Obligation of Warrandice would be Null: For the Case of an Obligment and a Disposition, is not alike; because a Woman is more easily induced to Oblige her self, than to Alienat or Dispoise: And when she Gives and

Dis-

Dispones, it is no more than she hath; but she may bind for more than she hath, *in infinitum*. Nevertheless, a Wife, *Matrimonio stante*, may oblige her self to Infeft her Husband's Creditors in Annualrents out of her own Property: And for that effect may grant Obligments to Infeft, and Procuratories of Resignation; which will be so far Valid and Sufficient against her, that Lucrative Deeds done by her, to the prejudice of such Creditors, are reducible *ex capite Doli*, and by the Act of Parliament 1621. The Bonds then, which are validly granted by a Wife, with her Husband's Consent, being Real, *i. e.* having respect to her Estate moveable or immoveable, the Stile of them shall be given, when we speak of such Bonds.

Of Bonds granted by Societies and Incorporations, the chief sort are, these granted by Magistrates of a Burgh, binding the Community; the Stile is in this Form. *We A. Provost of the Burgh of Edinburgh, B, C, D, and E. Baillies, F. Dean of Guild, G. Treasurer of the said Burgh, with the remanent Council, Deacons of Crafts ordinary and extraordinary, for our selves, as representing the whole Body and Community of the said Burgh; Grant us to have borrowed for the use, and in name and behalf of the said Burgh and Community thereof, from H. the Sum of, &c. in communi forma, Which Sum of — we the said A, &c. as representing, &c. bind and oblige us and our Successors in Office, thankfully to content, &c. in communi forma, In witness whereof, we have subscribed these presents at &c.*

Bonds by an Incorporation of a Trade, are made by the present Deacon and Box-master, by the whole old Deacons and old Box-masters, and by the Masters of the Trade; the Names of all which Persons are mentioned in the Bond that must be sign'd necessarily by the present Deacon and Box-master and by as many of the other Persons mentioned as he can get; the Stile whereof is thus,

BE it known to all Men, by these present Letters, Us A. Deacon, and B. Box-master of the Fleshers of the Canongate, C. D. E. and F. Masters of the said Craft, for our selves, and in name and behalf of, and as representing the hail Members and Brethren of the same: Forasmuch as G. has, at our earnest Desire and Request, advanced, payed, and delivered to us (towards
B
the

the furnishing and compleating of our new Mercat-place in the Canongate, in Timber and in Sclait, visiblie tending to our perpetual Being and Subsistance of our Calling) All and hail the sum of 2000 Merks Scots Money, whereof we for our selves and our Successors in the said Craft hold us well content, Renouncing, &c. Therefore we ye us to be bound and oblig'd; Likeas we by these presents bind and oblige us and our Successors in Place and Office, and the said Craft and hail Members and Brethren thereof, thankfully to content, pay, and again deliver to the said G. his Heirs, Executor or Assignes the forsaide Sum, &c.

Creditors in Bonds, for the most part, are single Persons acting for themselves, and their own behoofs: The Stile of Bonds granted to such, may be gathered from what is said before; But if the Bonds be for the behoof and in Name of another, as to a Tutor in Name of his Pupil, it is thus, *Grants me to have received from A. Tutor to C. for himself, and in name and behalf of his said Pupil, the Sum of, &c. Which Sum I bind me, &c. to pay the said C. (the Pupil) without taking notice of of the Tutor in the Obligatory Part.* The same is to be observed in the Case of a Curator; But, when the Money is lent by a Factor for the behoof of his Constituent, the Bond bear the Receipt of the Money from the Factor, in name and behalf of his Constituent, and the Obligatory Part makes the Money payable to the Constituent, his Heirs or Assignes, and sometimes is adjected, *Or to the said B. his Factor, or to any other he shall appoint.*

Bonds of borrowed Money granted to Burghs, or Incorporations, or Societies, bear the Receipt of the Money from the Treasurer of the Burgh, or Society, or from the Box-master of the Incorporation, in name and behalf of the Community, &c. And the Money is made payable to the present Treasurer, Box-master, or to his Successor in Office, for the use and behoof of the Community. When there's an Act of the Town Council, or of the Incorporation, &c. warranting the Treasurer, or Box-master, to lend the Money to that Debitor, it is sometimes narrated in the Bond.

If the Parent lay out Money for the use of his Child, the Clause of Receipt in the Bond is from A. *for himself, and in name and behalf of C. his Son,* and the Obligatory Part is, *to*
the

the said A. he being on Life, and failing of him by decease, to the said C. his Heirs or Assignes.

In like manner, when the Money is destin'd to the behoof of a Wife, the Receipt is from the Husband for himself, and in name and behalf of B. his Spouse, and the payment is, to the said A. and B. in Conjunction and Liferent, and after their decease, to C. their Son, his Heirs, &c. or it is, to the said A. his Heirs or Assignes whatsoever.

In these Bonds for Money lent by a Father, for the use of his Children, or to the behoof of a Wife, this Provision is ordinarily adjected, and is placed before the Clause of Registration, *It is likewise hereby provided and declared, That it shall be lawful to the said A. during his Lifetime, without Consent of the said C. his Son, to uplift, discharge, assign, or otherwise dispose upon the Sum above-mentioned, or any part thereof, any manner of way he shall think fit, and to grant all Writs and Rights necessary relating thereto, as he shall think expedient, and as freely in all respects, as if the said C. his Son were not provided thereto.* And further, *it is hereby provided and declared, That such Annualrents of the said principal Sum, as shall be resting the time of the decease of the said A. shall pertain and belong to the said C. his Son, and no ways to the said A. his Executors.* And of which Annualrents, that shall be so resting, I bind and obligate me, and my forefathers, to make payment to the said C. and his above-specified, at the payment of, and together with the said principal Sum, in case the same be not assign'd, or otherwise dispos'd upon by the said A. in his own time.

The Clauses of simple Bonds of borrowed Money, in which the Style varies, are the Clause or Receipt of the Money, which is either instantly receiv'd, or at a Term or Time before the Date, and is thus exprest, *Grant me to have borrowed and received at Martinmas last bypast, notwithstanding of the Date hereof, the Sum of a 1000 Pounds, &c.* When the Money is made to bear Annualrent from a Term or Time long before the Date of the Bond, this Clause is fit to be exprest, *For avoiding the Hazard of Usury, which is taking more Annualrent, either in Quantity, or with respect to Time, than is really and truly due.* In the Obligatory Clause, the Heirs and Successors of the Debitor are sometimes more fully exprest, than is done in the Bond above set down, as thus, *I bind*

bind and oblige me and my Heirs, as well Male as of Line Tailie, Conquest, Provision, and all others my Successors, Executors and Intromettors with my Goods and Gear whatsoever, conjunctly and severally, renouncing the Benefit of the Order of discussing of them: This is to be noticed, when Bonds are granted by Persons, whose Fortunes are Tailied, and is necessary to prevent the Exception of Discussing, competent in Law, to Heirs of the Second Order. The Heirs and Successors of the Creditor are directly exprest, sometimes the Executors are secluded, and I have seen a Bond of borrowed Money granted to one and his Executors, secluding his Heirs, and sometimes the Bond contains a Tailie and Substitution of Persons, as to a *Man and his Son A. and the Heirs lawfully to be procreat of his Body, which failzieing, to B. and the Heirs lawfully to be procreat of his Body, and so forth, to as many as the Lender pleases, which all failzieing, to J. his Heirs or Assignes whatsoever, secluding his Executors*: And because, by Law, those, who are first in the Institution or Substitution, may uplift and dispose upon the Money, without Consent of those, who are appointed to succeed after them; For preventing which, I have seen this Clause added, *That it should not be lawful, nor in the power of the Debitor, to pay the Money to the Institute, except upon getting a Discharge signed by the Substitute also, in Token of his Consent*; Which Clause hath had his designed Effect. The Terms of Payment are various, for either the Money is payable at one Term, and then it is exprest as in the Example above-mention'd, or it is payable at many Terms thus, *And that betwixt the Date hereof, and the respective Terms of Payment, in the special Proportions and Moyeties under-written, viz. — Or thus, With the due and ordinary Annualrent thereof, from the Term of Whitsunday 1705, to the Terms of Payment respective under-written, and that in manner and at the Terms following, to wit, 500 Merks thereof at Martinmas next to come, and other 500 Merks at Whitsunday thereafter, and the Sum of 500 Merks, in full and compleat payment of the haill above-written principal Sum, at Martinmas 1705, with the Sum of 60 Pounds Money foresaid of liquidat Expenses for ilk Terms Failie*. It is to be observed, That, when the principal Sum is thus divided, and to be pay'd at many several Terms, the Penaltty must not be an haill Sum

Sum for the principal, but so much for each Moyety, and for ilk Terms Failie, as in the Example above-written.

Every Obligation is imperfect, if a Penalty be not liquidat, and the Penalty is still proportion'd to the principal Sum: The Rule which Writers observe most frequently, is a 100 Pounds for each 1000 Merks principal, others guide themselves by the Act of Parliament concerning Adjudications, in allowing the Fifth Part of the Principal; But, in this, there's no certain Rule: For, in greater Sums, the Penalty is lesser than a 100 Pounds to a 1000 Merks; And, in petty Sums, the Penalty is made greater than the Fifth Part of the Principal. And generally, respect is had to the Expenses of Diligence, which necessarily must be us'd, for getting payment, if the Debitor Failie, for sometimes the necessary Expense will exceed the Principal, when small.

If the Debitor be owing other Sums besides these in the Bond, it is convenient to adject this Clause, *And it is hereby declared, that the Sums contain'd in this present Bond are over and besides any other Sum due by me to the said A. or for which I stand bound to him; Or thus, That the Sums contain'd in this Bond, are besides the Sums contain'd in a Bond of the date, and in another of the date, &c.*

Bonds are granted for the Price of Goods, or Merchant Ware, and the Bond expressly bears it, thus, *Grants me to be justly Resting, and Owing to B. the Sum of 500 lib. Scots Money, as the Price of Goods and Merchant Ware, bought from, and delivered by him to me, wherewith I hold my self well contented and satisfied, &c. which Sum I bind and oblige me to pay.* Or thus more generally, *Grant me to be justly addebtred, resting or owing to B. the Sum of 500 Merks, which I bind me to pay,* and the rest of the Clauses of the Bond are set down in *Communi Forma*. Thus any case that may occur is exprest, except when it requires a Narration of Circumstances and Causes, and then the Bond is Compound, and a Narrative must be formed, as shall be shown hereafter.

There are Bonds for Pensions and yearly payment of a certain Sum to continue during pleasure, or otherwise as is agreed, which Bonds are not Gratuitous, seing they are given for Services done and to be done. The Stile whereof are of this, or the like Form.

I A. considering, that I have nam'd B. to be my Advocat in ordinary, and that he will be at considerable Pains and Trouble in discharging that Trust, am resolv'd to settle on him the yearly Salary underwritten: Therefore I bind and oblige me, my Heirs and Successors, to content, satisfie and pay to him, his Heirs or Assignes, the Sum of — Scots Money yearly, and each year during his Lifetime and serving me as ordinary Advocat, at least ay and while these Presents be discharg'd by me in Write, beginning the first years payment thereof at Whitsunday next to come, 1703, for the year preceeding, and so furth yearly thereafter during the said space. Registration, &c.

Bonds for payment of Money may have many other One-rous Cause besides these above set down, but the manner of expressing the same, and of forming a Bond thereupon, may be sufficiently known from these few Examples given.

Bonds for payment of Money proceeding upon a Gratuitous Cause, are, free Gifts and Donations, or Provisions of Children; Donations in an Obligatory Form, bear to be granted for Love and Favour, and out of Kindness, Good-will, or certain Respect, which the Granter has to the other Party, and do not much differ from the Stile of Bonds of Provision. It is to be observed, that because such Deeds of Favour, are not usually, at signing, delivered to the Party, it is fit there be a Clause dispensing with not delivery.

Bonds of Provision are granted by a Father to his Children, or by an Husband to his Wife, who is not otherways provided throw want of a Contract of Marriage, or by an Elder Brother to Younger Brethren or Sisters not provided by the Father. Bonds of Provision by a Father to a Child may be considered as, in some part, Gratuitous, in some part not, for if the Father was not by Contract of Marriage bound to provide his Children in a certain Sum, then the Bond of Provision, having no other Cause, than Paternal Dutie, proceeds on meer Fatherly Care and Natural Affection, and is so exprest: But if he was bound, then that Clause in the Contract of Marriage is previously Natrated, and an Induction or Subsumption is made thereupon, as will appear from the Examples which shall be given when we treat of Compound Bonds.

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The Stile of a simple Bond of Provision is thus, I A. for the Paternal Love and Fatherly Affection I bear to B. my lawfull Son, and for his Portion, bind and oblige me, and my Heirs, as well Asale, &c. to make due and thankful payment to the said B. and to the Heirs lawfully to be gotten of his Body, or to his Assignies, which failing, to return to me and my Heirs whatsoever, of the Sum of 6000 Merks Scots Money, and that at the first Whitsunday or Martinmas next, or immediately following my Decease, when the same shall happen at the pleasure of GOD, with the Sum of 600 lib. Money foresaid of Liquidat Expenses in case of failzie, and with the ordinary Annualrent of the said principal Sum, conform to the Acts of Parliament, Yearly, Termly, Monthly, and Proportionally, so long as the same shall happen to remain unpaid after the Term of payment foresaid.

In Bonds of Provision the following Obligement is frequently insert, And further, I bind and oblige me and my foresaid, upon my own Expense, to Entertain, Educat, Aliment and Furnish the said B. with all things necessary, until the Term above-mentioned, appointed for payment of his Portion, and for the space of six Months thereafter: And if the Bond be to a Child of a Nobleman or Ancient Baron, the Clause to furnish Necessaries must have thereto adjected, According to their Birth and Quality.

It is necessary likeways to adject this Declaration, And it is hereby declared, that this Bond of Provision is in full Contentation and Satisfaction to the said B. my Son, of all Bairns part of Gear, Portion Natural, Executry, Legacies, former Provisions, or any other thing whatsoever that he can Ask, Claim, or Crave by and through my Decease, when the same shall happen at the pleasure of God. And in some cases may be added, Or his Mothers decease, or by his Mothers Contract of Marriage, or any other manner of way, except alienarly what I shall be further pleased to bestow upon, and provide to him at any time during my Life; And likeways this Clause is enlarged with this Addition, It is always hereby declared, that in case I shall assign to the said B. any Bond or Bonds containing as much of principal Sum as in this Bond of Provision, then, and in that case, the said B. shall be obliged to accept the same, and this Bond of Provision shall become void and null from thence furth and forever. Upon which express Provision this Bond is granted, and accepted, and no otherwise.

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Sometimes 'tis necessary to adject the following Reservation, and Declaration, Reserving nevertheless full Power to me at any time of my Life, vel in ipso articulo Mortis, to Revoke, Alter, or Innovat this Bond, and to declare the same Null, and to Augment or Diminish this Portion, if I shall think fit, and that by a Declaration to be subscribed with my hand, which shall be sufficient for that Effect; but in case I shall not alter the same, then I declare this to be a valid Evident in favours of him and his forefaids, albeit it be lying in my own Custody, or in the keeping of any Person undelivered to him the time of my decease, notwithstanding of whatsoever Act, Law or Practique made or to be made in the contrary, wherewith I for me and my Heirs by these presents dispence.

When the Bond of Provision is made by a Father in favours of his whole Children, the Stile is thus. I A. for the Paternal Love and Fatherly Affection that I have and bear to B. C. &c. my lawfull Children, by these Presents, under the Provisions and Conditions after-specified, bind and oblige me, my Heirs, Successors and Executors whatsoever, to make good and thankful payment to my said Children of the several Provisions underwritten, viz. To the said B. the Sum of — Scots Money: To the said C. the Sum of — Money foresaid, and that immediately after they shall attain to the respective Ages of 14 Years compleat, together with 10 Merks for each 100 Merks of their principal Sums of liquidat Expenses, in case of failie, by and attour their respective Provisions, together also with the ordinary Annualrent of their said Portion, from the First Term of Martinmas or Candlemas, Whitsunday or Lambmas, immediately after my decease, whether the same happen after or before their attaining to their said respective Ages of 14 Years compleat: Providing always, likeas it's hereby expressly provided and declar'd, That, if any of my said Children shall depart this Life before their Marriage, and also before their Majority, in that Case, the Portion of the Child so Deceasing, shall fall, accresce and belong to the Two Surviving Children equally betwixt them; And, if either of the Two Survivers Decease before their Marriage or Majority, in that Case, the Provision of the Child who deceases, with the Addition of what fell by the deceasing of the other, shall fall, accresce and belong to the Heir, and last Surviving Child, equally betwixt them. And it is further provided and declared, That it shall not be Leisum to my said Children,

children to frustrate the foresaid Condition and Destination by disposing or assigning their said respective Portions to any person before their Marriage, and during their Minority, without prejudice to them, after their respective Marriages, or after the elapsing of their Minority, to Assign and Dispose upon their Portions as they shall think fit. And if the Granter be a Nobleman or Gentleman of an opulent Fortune, or if his Estate be Tailzied, the Bond of Provision may bear, That the Portion should in the last place return to himself and his Heirs Male and of Tailzie, succeeding to him in his Dignity and Estate.

When a Bond contains the Portions and Provisions of many Children with such Conditions and Destinations as these above-mention'd, the Father is in use to sign several Copies of that Bond in which this Clause may be insert, And to the effect every one of my said Children may have an Authentick Double of this present Bond of Provision, I have likewise Subscribed two other Doubles of these presents of the same Date, Tenor and Contents, any one of which three Bonds being fulfill'd, the other two are to be void, as being for the said Cause and Sums.

The Terms of payment of Provisions to Children, are either at any year within their Majority, as 12, 14, 16, 18, 20, or 21, or at the first Whitsunday or Martinmas after the Fathers decease, as the Party shall condescend.

The manner of dividing the Sums provided among many Children, is as Arbitrary; for either every Child is provided to a certain Sum, and then there's no necessity of a Clause of Division; or else the Father provides a large Sum in general to all his Children nam'd in the Bond; or sometimes he makes Provision for the Children to be procreat, as well as the Children already procreat, and named in both, in which Cases the following Clause of Division may serve, with a small Alteration, and may be thus exprest, If there be two, three, or many Sons or Daughters Procreat, or to be Procreat betwixt the Father, and the Mother, In that case the Father declares, That the said Sum of — is to be divided amongst them as he shall think fit, and order, in his own time, and to be pay'd at such Terms as he shall be pleased to appoint; and failing of any such Division, in that case, the Sum is to be divided by two of the nearest of Kin on the Fathers side, and two of the nearest of Kin on the Mothers side: And if there be no such Division, in that case the Sum of — thereof is to belong to the Eldest, and the remainder to

be equally divided amongst the other Children, and to be payable (if he shall appoint no Term in his own Lifetime) at the Whit-sunday or Martinmas next, and immediately following his decease, when the same shall happen at the pleasure of GOD.

The Sums in Bonds of Provision seldom bear Annualrent till after the Term of payment.

In Bonds of Provision the Penalty is not always specified, as in common Bonds; for when the Sum is blank, as it sometimes happens to be, that the Father at any time he pleases may fill it up; it is not usual to leave a blank for the Penalty too, but the Penalty in these cases being for the most part Ten for each Hundred, Writers use this general Clause, *with 100 for ilk 1000 Merks of the said principal Sum of liquidat Expenses in case of failie.*

Provisions to Wives, not otherways provided by an ordinary Contract sign'd before Solemnization of the Marriage, are made by granting Writs in the form of a Contract between Man and Wife, as shall be treated in the Stile of Contracts.

Bonds of Provision, by a Brother to a Sister have for their Cause, *The Love and Favour the Granter bears to his Brother or Sister, and for his or her better Provision, binds and obliges himself to pay—* in the same way as if it were granted by the Father.

Of Bills of Exchange:

Money is also got and gifted by Legacy and in Testament, which is an Original Constitution of a Debt, and by which the Executor becomes bound to the Legators for payment of what is bequeathed; and so in this place one might expect to find something concerning Testaments, but because they are not formal Obligations, and may be considered as Conveyances and Deeds of Alienations, it is thought fit to refer giving the Stile of Testaments, till we Treat of Conveyances.

Money is due, and a Debt may be constituted by Bills of Exchange as well as by Bonds, and of late the use of such Bills is become frequent, which makes it very Convenient to give a short Advice concerning Bills of Exchange, [their several Forms and Manner of proceeding. And first, Bills are either *Out-land*, and then they are drawn by or upon Persons living in an other Country, and the Money payable in the species

species Forreign... Or, *In-land*, when drawn by, or upon Persons living within this Kingdom, and payable in the current Money thereof.

As to the Persons imployed about Bills, four are ordinarily requisite, two at the place where the Money is taken up, and two where it is payable, 1. The Deliverer or Giver of the Money. 2. The Taker or Receiver of the Money, and who on that account draws the Bill, and is called the Drawer. 3. He, who is to repay the Money, upon whom the Bill is drawn, and to whom it is directed. And 4. The Party to whom the Money is payable, and to whom the Bill is sent.

But sometimes only three persons are needful, as when the Deliverer of the Money takes the Money payable to himself.

Yea, Money may be done by Exchange between two Persons, as when the Drawer makes the Bill payable to himself or Order, and directs it to the party that owes him Money, and is to pay it by Exchange; which Method is very convenient, for it Constitutes the Debt, and makes way for speedy Diligence.

There are two Copies given for the same Sum, when the Bill is Out-land, lest one which is sent by the Post should miscarry, the other is kept by the Deliverer of the Money and Bills, especially Foreign, are drawn either at Usance at days sight, or at a certain time after Date.

By Usance Merchants understand the space of a Month after the date of the Bill, i. e. the same day of the next Month following, in which the Bill is dated, as a Bill drawn to June, payable at Usance, must be Answered on the 10 of July, and And there is double Usance, i. e. two Months; Triple Usance, i. e. three Months; And half Usance, i. e. 15 days. The Trading Towns of Europe having different Usances, some have simple Usance, as from *Edinburgh* to *Amsterdam*; others have double Usance, as to *Venice*, &c. and this serves to compute the current Price of Exchange from one place to another, not that Bills on these Places may not be payed sooner than 1, 2, or 3. Months; for they may be pay'd at certain days sight, as Parties agree.

A Bill payable at so many days sight, is to be accounted so many days next after the Bill shall be accepted, and not from the

the date of the Bill, nor from the day the same came privately to hand, or was privately exhibited to the Party on whom it was Drawn, if he did not accept thereof, for the sight must appear in a legal way, *i. e.* by Acceptation or Protest.

Bills payable at a certain time after their date, are much in affinity with these payable at Usance.

The several Forms of Bills of Exchange.

Laus Deo. In Edinburgh this 27 June 1705 for 100 lib. Sterling.

At six days sight pay this my first Bill of Exchange to A. or his Order, One Hundred Pound Sterling, for the value here received of B. Make good payment, and put it to Account, as per Advice from

*Your O^c.
To D. Merchant
in London.*

The Second Bill is the same with the first, only with this Alteration and Addition,

At six days sight pay this my second Bill of Exchange (my first not being pay'd) to A. Or thus,

At six days sight, not having my first, pay this my second Bill of Exchange to —

If he who signs the Bill is to make himself Debitor, he writeth in the Bill, *And put it to my Account*: But if he to whom it is directed is Debitor to the Drawer, then he writes, *And put it to your Account*: Or he says, *Value in your own hands*. Also it is sometime expressed, *And put it to the Account of such an one*.

If the Bill is to be Assign'd to another, the Assignment must be writ on the back of the Bill thus,

Pay the Contents on the other side to E. or Order, value of F. and he signs A.

But if E. do likewise transfer the Bill, he writes only thus, *Pay the Contents hereof to F. and he signs E.*

If the Bill be transacted among three Persons, it bears, *Pay to A. the Sum — value of himself received.*

If a Bill be to be payed to a Trustee, or Factor, and payment

ment be made for the behoof of the Drawer, it should be thus,
Pay to A. for my behoof the Sum of —

Bills drawn in this Form and accepted, upon Non-payment in the due time, must be protested against the Acceptor, either personally, or at his Dwelling House, which gives trouble to the Haver of the Bill, to seek out the Acceptor, or to go to his Dwelling House with Nottar and Witnesses, to prevent which trouble, the Bill may be written thus,

Upon the first of July, pay to A. or his Order, at his Dwelling House in the Land-Mercat in Edinburgh, the Sum of — like value you are resting me, with Interest after the Term of Payment. Make thankful payment, and you will oblige yours, &c. And thus Interest and Annualrent may be made due by Bills of Exchange, as well as by Bonds.

The Form of Bills drawn payable to the Bank is thus,
 Edinburgh. —

Sixty days after date hereof, pay to — or Order, at the Bank-Office in Bank-Money, the Sum of 25 Pounds Sterling, Value received.

If it be Negotiated betwixt two only, then it is in this Form,
Pay to me, or my Order, the Sum of — due by you to me, or — Value in your Hands, and the like.

The Sum in Bills of Exchange is twice exprest, once in Figures in the Top of the Bill, or at the Side or Foot thereof, and in the Body in Letters; If these two should disagree, what is fully exprest in Letters, and in the Bosom of the Bill, is the Rule of Payment.

No Bill, where the Name of the Person to whom it is payable, is mended or interlin'd, ought to be accepted or regarded.

If a Bill be made payable to *such a Man*, and not to *such a Man, or his Order*, an Assignment on the Bill will not serve the Turn, but the Money, in strictness of Law, must be pay'd to the Man in Person, who must be known to be the Man: And this Man's Name written on the back-side of the Bill in blank, is no sufficient Warrant for another to receive the Money.

The Direction and Acceptance of Bills, is usually written in the In-side of the Bill: The Direction is given before, and the

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Acceptance is thus, *Lond. 27. June 1705. Accepts: And then he signs.*

Now the Person, to whom the Bill is pay'd, is ordinarily design'd, that it may be known who he is, and also he, on whom it is drawn, but the Drawer is not so: For which end, of late, especially in In-land Bills, the Drawer subjoins to his Subscription thus, *A. Merchant in Edinburgh.*

When the Bills are for the Use of Gentlemen travelling through Foreign Countries, it is most expedient, to have the Species of the best and most current Money express'd in the Bill, which indeed will occasion one and an half, or two, and more *per Cent.* Difference in th' Exchange: And, in Foreign Parts, especially in *Germany* or *Italy*, where, through the Multiplicity of petty Sovereignties, their Species of Money is very different, one sort is more universal than another, and a Traveller should have his Money payable in such Species.

It is most inconvenient, to have Bills payable to the Bearer; For, if such do miscarry, and come to a wrong Man's Hand, he may receive the Money, and he who pay'd will produce the Bill it self for his Warrant to pay it to whosoever shall bring it, and thereby the true Owner loses his Money.

Sometimes Foreign Bills carry to be drawn *per Advice*, sometime they bear *without further Advice*; Which last is more convenient for the Haver of the Bill: For, in the other Case, the Party on whom the Bill is drawn, ought not to accept, till the Letter of Advice comes to his Hand, which may retard the payment, and disappoint the Haver of the Bill.

Bills of Exchange, either In-land or Out-land, are not regulated by the Common Law, but by the Law of Merchants: And therefore they need no Witnesses to the Subscription of the Parties; For it supposes, that these, who deal in Exchange, are Men of Honesty and Credit, and will truly, and of their own accord, acknowledge their Subscription; But, if it should otherways happen, it might be easily provided against by their Letters, in comparing the one with the other, and by the Consequences of the Draughts and Books of Accounts, and by diverse other Circumstances. But this doth seldom occur.

When ever the Bill comes to Hand, the same should be presented, and an Acceptance demanded, or Protest taken for not
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Acceptance; For no days are, by the Law, allow'd Merchants herein to deliberate: However, in Discretion, a small time, as 24 Hours at most, ought not to be deny'd, if sought.

If a Bill be directed to two or more Persons in this manner, *To A. and B.* they must both accept; And, if any one refuse, the Bill must be protested for want of due Acceptance: But, if it be directed thus, *To A. or, in his Absence, to B. Or To A. and B. or to either of them,* the Acceptance by any one of them is sufficient, and the Bill cannot be protested for want of due Acceptance.

Verbal Acceptance is binding, and probable by Witnesses; So that the Haver of the Bill, upon Non-payment, may protest, and raise Action against the Verbal Acceptor, which will be effectual.

If the Party accept the Bill only for part of the Money, the Haver may take it; But he should nevertheless protest for Non-acceptance for the whole, and immediately send Advice to his Friend and Correspondent: And, at the Term of Payment, he may receive that part, but should again protest for Non-payment of the whole, and give Advice accordingly.

Protest for Non-payment ought to be made upon the third day after the Bill falls due, and Advice thereof sent the first Post to the Drawer, or to the Correspondent of the Haver of the Bill; and some use, in certain Cases, to protest within two days. The day on which the Bill falls due, is part of the time limited in the Bill, and these days of *Grace*, as they are called, are compted next after the Expiration of that day, and are allowed, as well for him to whom it is payable, to procure payment, as for him, on whom the Bill is drawn to pay it. *Sundays and Holy-days* are counted in the Number.

Tho' this Caution has not been observed, yet it is convenient to make Protest for Non-payment; even five, six, or more days, after the time limited in the Bill.

If, betwixt Acceptance and Payment, the Acceptor fail in his Credit, Demand must be made by a Nottar for better Security: And, in default thereof, Protest for better Security, whereof Advice must be sent to the Correspondent.

As all Nottarial Instruments, so Protest should be made in the day time, *i. e.* after Sun Rising, and before the Setting thereof.

A Bill should not be pay'd before it become due, lest a Countermand might be sent by the Drawer to the Acceptor, who may lose the Money, if, before the time in the Bill, the Drawer send contrary Advice, because the Money stipulated to be payed for the Bill, is not delivered to him, or the like.

OF BONDS *ad facta prestanda* Simple.

The second sort of Bonds, are these granted for performance of certain Deeds *ad factum prestandum*, which are various, and cannot well be classed; Nor is there any fixt Stile used, but the same are formed according to the Paction and Circumstance of the Parties, or of the Deed to be done: However they may be divided into Bonds Principal and Accessory, or Bonds of Cautionry. I shall set down the Stile of simple Bonds of this kind, which more frequently occur, and may serve for a Rule and Directory in other Circumstances and Cases.

Of Bonds Principal, take the following Example: A Bond to dispone Lands for a Sum of Money instantly receiv'd is thus, *I A. grant me to have receiv'd from B. the Sum of 1000 Pounds Scots Money, for which I bind and oblige me, my Heirs and Successors, to dispone to him, or any Person he shall nominat, the Lands and Estate which belonged to C. and which fell in his Majesty's Hands by his Forfeiture, and whereunto I have Right by a Gift granted to me of the date, &c. And to assign to the said B. the same Gift, in so far as it may be extended to the Estate real or personal which belonged to the said C. and to grant all Writs that may be needful for denuding me, and establishing the Right thereof in the Person of him, or any he shall appoint, as said is, with Warrantice from our proper Fact and Deed allonarly: And, in the mean time, I grant power to the said B. or any he shall think fit to intrust, to intromet with and uplift the haill Rents, Profits and Duties of the foresaid Estate, as well bygone resting unpay'd, as in time coming, to be dispos'd upon by him at his pleasure, without being comptable to me, or any others, for the same: Providing always, that the said B. upon my granting the foresaid Right to him, be holden and obliged to make payment to me of — more, making up in haill, with what I have now receiv'd the Sum of — Scots Money, which I have condescended to accept for the Right of the said Forfeiture at his Request. Registration, Horning on six days.*

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Of Bonds Accessory, and of Cautionry.

The Stile of Bonds Accessory or Cautionary for performance of Deeds, may be known from the following Examples.

As 1. A Bond of Cautionry in loosing an Arrestment, is thus, — I A. bind and oblige me, my Heirs and Executors as Cautioner and Soverey acted in the Books of Council and Session, for B. that his whole Goods, Gear, Corns, Carrel, Inghit Plenishing, Sums of Money, Debts, Horse, Nolt, Sheep, Mails, Farms, Profits and Duties of Lands, and others whatsoever pertaining to him, and Arrested at the instance of C. shall be furthcoming to the said C. as Law will.

2. A Bond of Cautionry in a Suspension, when for Reasons of Multiple Poinding, is thus, I A. by the Tenor hereof, bind and oblige me, my Heirs, Successors, and Executors, as Cautioner Soverey, & full Debitor acted in the Books of Council & Session for B. that he shall make payment to C. or D. or E. or F. or to any of them who shall be found by the Lords of Council and Session to have best Right to the Sums under written, of the Sum of — Scots of Principal, with the Annualrents thereof, and — of liquidated Expenses, contained in a Bond granted by the said B. to the decaist G. and to which the whole fore-named Persons pretend Right, in case it should be found by the said Lords, that he ought so to do after the discussing of the Suspension, to be raised by him in the said Matter. When it is in a simple Suspension it is in this Stile, — That he shall make payment to C. of the Sum of — (as in the Charge) contained in a Bond alledged made and granted by the said B. as Principal, and D. as Cautioner for him, Conjunctly and Severally to E. at the date — Registrar — and in an Assignment made to the said C. dated &c. in case it shall be found, &c.

When the Suspender is Denounced and Registered to the Horn, and if the Letters of Suspension contain a Warrant for Relaxation, the Bond of Cautionry must have this Clause, — And likewise that the said — shall make payment to His Majesty's Treasurer or Treasurer Depute, of the Sum of 10 Merks Scots Money, in name of Composition, for the Escheat of his Goods and Moveables, falling in H. M. hands through being of the said — lawfully Denounced to the Horn, and Registered for the causes foresaid.

3. A Bond of Cautionry in a Suspension of Lawborrows, is in this Form, I A. bind and oblige me, &c. as Cautioner for

D

B.

B. and C. Persons Complain'd upon, that E. &c. and their Bairns, Tenants and Servants shall be harmless and skaithless of the said B. and remanent Persons complained upon, in their Bodies, Lands, Heretages, Tenements, Annualrents, Liferents, Tacks, Seedings, Rooms, Possessions and shall noways be troubled, by them thereintil, nor by no others of their sending bounding out, Reset and Assistance, and Ratihabition, nor by none whom they may stop or lett, etherwise than by order of Law and Justice in time coming, and that under the pains following, viz. Ilk Nobleman and Noblewoman under the pain of 2000 Merks, other Landed Men under the pain of 1000 Merks, and ilk Unlanded person under the pain of 400 Merks, and that for obedience of the Charge of Laborrows given to the foresaid Persons, for whom I am Cautioner, in case it shall be found by the Lords of Council and Session, that they ought so to do, after the discussing of a Suspension to be obtain'd in the said Matter.

4. A Bond of Cautionry for keeping of the Peace, is thus, I A. by the Tenor hereof, bind and oblige me, &c. as Cautioner for B. that he shall keep His Majesty's Peace during this Current Parliament, and in all time coming; and also that shall be harmless and Skaithless in his Person and Goods, Good Name and Gear, and noways troubled by him, nor no others of his Causing, Sending, Hounding out, Commanding, Reset, Assistance, or Ratihabition, whom he may stop or lett, directly or indirectly, during the foresaid space, under the pain of to be payed to the said Clerk of the Court of Constabulary, for the use and behoof of the Lord high Constable of Scotland, and his Deputies.

5. A Bond of Compearance before a Court, is in this Form, I A. by the Tenor hereof, bind and oblige me, &c. as Cautioner for B. that he shall compear before in a Court to be holden by him within — upon betwixt 2 and 3 in the Afternoon, there to underly the Law for the Crimes Lybell'd, under the Penalty of &c. as in the Bond for keeping the Peace: And if the Bond for keeping the Peace be ingrossed after, then say, And that the said shall be Harmless and Skaithless, &c. It is to be Noted, That when these two Bonds are ingrossed, there's but one Penalty in the Bond.

There are other Obligations for Performance of Deeds, which not being ordinarily in a writ a part are adjected to other Bonds as an Obligement commonly called a Clause of Relief, adjected

adjected to a Bond for borrowed Money granted by a Cautioner, and a Principal, and an Obligation to grant an Heretable Bond of borrowed Money, or the like; for there is no simple Bond whatsoever, which, according to Circumstances, may not be adjected to other Writs.

A Clause of Relief which is subjoined and Incorporated with other Writs granted by Principal and Cautioners, is thus — *Likeas, I the said A. bind and oblige me and my fore-saids, to Warrant, Free, Relieve, and Skaithless keep the said C. D. and E. of the Cautionry above-written, and of all Coast, Skaith and Damage, Expenses and Interest, that they or either of them, or their fore-saids, shall happen to sustain or incur there-through in any sort: And we the saids Cautioners, bind and oblige us hinc inde, to others and our fore-saids, to Warrant, and equally to Relieve others of the Premisses, and of what Dam-nage, Interest and Expenses shall be sustained thereby, each of us for our own parts pro rata.* This mutual Relief is only sub-joined where there are two or moe Cautioners.

An Obligement to grant an Heretable Security adjected to a simple Bond of borrowed Money, is in this Form, *And for for further Security thereanent, I bind and oblige me, and my fore-saids, to Grant, Subscribe, and Deliver to the said B. when-soever I shall be desir'd, a valid and sufficient Heretable Securi-ty for the said Debt, out of all or any part of my Lands and E-state within this Kingdom, where ever the same ly, and that ei-ther by granting a Wadset or an Infeftment of Annualrent, as he shall think fit, to be holden either of me and my Heirs, or from me of my immediat Superiors, Blench or Feu, as may best subsist with the Laws of this Kingdom, and with all necessary and usual Clauses that any Lawyer to be pitched upon by the said B. shall think just and reasonable, and to cause extend the fore-said Se-curity, and give Seassin thereupon, or expedite an Infeftment by Re-signation or Confirmation, as he shall think fit, and all upon my own proper Charges and Expenses, without prejudice always of the personal Obligement above-written, or suiting Execution thereupon at the Term of payment above-mentioned, or at any time thereafter without Requisition.*

The Form and Stile of other Bonds, as well for payment of Money, as for performance of Deeds, are set down in the Section which treats of Compound Bonds.

Of Discharges and Acquittances, simple.

HAVING treated of Obligations simple, occasion offers to explain the Conveyances and Assignations of these, but before we treat of these. It is proper to give the Stile of Discharges granted by the Creditor, and these are either of the Annualrent alone, or of the Annualrent and Principal, and of the whole Obligement.

A Discharge of Annualrent is in this Form, *I A. grant me to have received from B. the Sum of 60 lib. Scots Money, as the due & ordinary Annualrent from Whitsunday 1687 to Martinmas last bypast 1688, of the Principal Sum of 1000 lib. Money foresaid, contain'd in, and due by a Bond granted by him to me, of the date — Therefore, I by these presents, Exoner, quite Claim, and simply Discharge the said B. his Heirs and Successors whatsoever, of the Annualrents of the foresaid Principal Sum due at and preceeding the said Term of Whitsunday last bypast, and obliging me, my Heirs and Executors to Warrant this Discharge at all hands, and against all deadly, as Law will. I consent to the Registration hereof, &c.*

This Stile is the same with a little Variation when more Years Annualrent are pay'd, for in stead of half an Years Annualrent, say 2, 3, or 4. years, from *Whitsunday to Whitsunday*, or indefinitely, as the Annualrent from *Whitsunday 1689, to Whitsunday 1695, &c.*

If Retention is to be allowed, then say, *As a Years Annualrent (after deducing Retention) from Whitsunday 1704, to Whitsunday 1705, &c.*

When the whole Bond is satisfied, the Money is either payed by the Principal, in which case, if the Bond has not been Registred, and Diligence done thereupon, he either retires the Bond simply, and cancels it without taking any Discharge from the Creditor, or, which is safest, he takes a Receipt on the back thus, *I the within named A. Grant and Acknowledge, that I have received from the within designed B. full and compleat payment of the principal, Annualrents and liquidat Expenses, due by vertue of this within-written Bond; Therefore I Discharge the same, and whole Contents thereof, or thus, Therefore I Discharge the said B. and his Successors, of the with-*

within Sums and Bond, and whole Contents thereof, for ever. In witness whereof, &c.

If the Bond has been registrated, and Diligence done thereon, or if the Debt be pay'd by the Cautioner, then the Discharge must be in a Writ apart, and is a Compound Security, which shall be treated of hereafter.

Discharges, either of Principal or Annualrents, may not only be granted by the Creditor himself, but also by his Factor, who has either a general Mandat and Commission, or a special one: All which might be treated of here, did not my designed method oblige me to refer to another place the treating of Factories and Commissions, which I look on as Compound Writs; But because there are some Commissions called Procuratories and Precepts, which are adjected to, and are parts of Compound Writs, it is convenient to give the Stile of such, especially in this place, because they are Writs which are never found alone and by themselves, but are always adjected to Compound Writs. These which we shall take notice of, are Procuratories of Resignation *in favorem* and *ad remanentiam*, Procuratory to serve Heir and Procuratory of Resignation conjoin'd. And, *Lastly*, Precepts of Warning and of Seisin: Of which in order.

Of Procuratories of Resignation,

A Procuratory of Resignation *in favorem* adjected to a Disposition is thus, *And, for effectuating the foresaid Infeftment by Resignation, I, by these Presents, make and constitute —, and ilk one of them, conjunctly and severally, my very lawful and irrevocable Procurators for me, and, in my Name, to Resign, Surrender, Over-give and Deliver: Likeas I, by these Presents, Resign, Surrender, Over-give and Deliver, all and hail (here the Lands are repeated) lying as said is, together with all Right, Title, Interest and Claim of Right, Property and Possession, Petitor and Possessor, that I, my Heirs and Successors, had, have, or any ways may claim or pretend thereto, or any part thereof in time coming, In the Hands of my Immediat Superior or Superiors of the same, presently being, or that shall happen to be for the time, or of his or their Commissioners, having power to receive Resignations in his or their Names, In favours, and for new Infeftment of the same, to be made and granted to the said*
B. his

B. his Heirs or Assignes whatsoever, heretably and irredeemably, as said is; And thereupon Acts, Instruments and Documents needful, to ask, lift and raise, and generally, all and sundry other things anent the Premises, to do, use and exerce, which, to the Office of Procuratory in such Cases, by the Law and Custom of this Realm, is known to appertain, and which I might do my self, if I were personally present, promising to hold firm and stable all and whatsoever things that my said Procurators, or any of them in the Premises lawfully does, or causes to be done, butt Revocation.

When a Disposition of Lands is made by an apparent Heir, who is not infest, there is adjected to the Right, a Procuratory for Serving the Disposer Heir to his Predecessors, and for Resigning thus, — And because I am not as yet Infest and Seased, as Heir to the said deceast D. my Brother, in the Lands, Barony, and others above-disposed: Therefore, and also for making of the Resignations after-mentioned, I, by these Presents, make and constitute —, and ilk one of them, conjunctly and severally, for me, and in my Name, to purchase and procure Brieves furth of our Sovereign Lord's Chancellery, for procuring me to be duly and lawfully Retour'd nearest and lawful Heir Male to the said deceast D. my Brother, in the Lands, Barony, &c. above-disposed, or to any other of my Predecessors, who died last Vext and Seased therein, and to Raise and Proclaim the Brieves for that Purpose, and to expedite the Service, and to compear for me thereat, and to return the same to the Chancellery, and to take Instruments, and do all other things requisit, concerning the Serving me Heir in Special, and Heir in General, to the deceast D. my Brother, or others my Predecessors, which I might do my self, if I were personally present, and afterward to procure me Infest therein, by Raising Precepts upon the said Service, and to cause Register my Seasin: And I being so Infest and Seased, with power to my said Procurators, conjunctly and severally, as said is, now as then, and then as now, to Resign, &c. Likeas I, as if I were already Infest in all of them, and then as now, by these Presents, Resign, &c.

When the Disposition of the Lands is to the Superior, the Procuratory of Resignation is, *ad remanentiam*, thus, To Resign, &c. in the Hands, and in Favours of the said B. and his forefairs, *ad perpetuam remanentiam*: To the effect, that my
Right.

Right of Property being consolidat in his Person, with his own Right of Superiority of the same, all and haill the Lands, &c. and others above-expressed, so holden, may remain and abide with him, and his foresaids, heretably and irredeemably, perpetually in all time coming: And thereupon acts, &c.

If the Lands be disposed to the Superior and his Wife, the Resignation *ad remanentiam* must be thus, *In the Hands and Favours of the said B. and his foresaids, ad perpetuam remanentiam, and in favours of his said Spouse, for her Liferent Use, as said is: To the effect, that my Right of Property may remain and abide with him, and his said Spouse, for her Liferent Use, which failzieing, with his Heirs and Assignes, &c.*

If part of the Lands disposed hold of the Buyer and Purchaser, and other part thereof hold of another Superior, then the two Procuratories in *favorem* and *ad remanentiam* are adjected, containing their respective Lands; But, if it be dubious, which Lands hold of the Purchaser, then all are contained in the Procuratory of Resignation in *favorem*: And, immediatly after the Clause, *In favours, &c.* in due and competent Form, the Resignation *ad remanentiam* is subjoin'd thus, *And, if it shall be found, that any of the said Lands, &c. above-disposed, with the Pertinents, do hold immediatly of the said B. in that Case, with power to my said Procurators, conjunctly and severally, as said is, to Resign, &c. as I Resign, &c. such Parts and Portions of the Lands, and others above-disposed, that shall be found to be so holding, with all Right, &c. In the Hands, &c. and, In Favours, &c.*

Of Precepts.

Precepts directed by Heretors, and Persons Infeft, to their Baillies and Officers, are a sort of Commissions, and very like unto Procuratories, such as Precepts by an Heretor for warning away Tenants, and Precepts of Seisin adjoin'd to a Disposition for Infefting the Purchaser.

Precepts of Warning are in this Form.

A. *Heretable Proprietar of the Lands, and others underwritten, To — Executors hereof, conjunctly and severally, Greeting: It is my Will, and I desire you, That, incon-*
venient

inuent this my Precept seen, ye pass 40 days preceeding the Term of Whitsunday next to come, and lawfully warn, conform to the Act of Parliament made anent Warning of Tenants to remove from Lands, the Persons after-named, pretended Tenants and Possessors of the Lands, and others under-written, viz. [here insert the Names of the Tenants, and of the Lands, as in the Tacks, or in the Heretors Rights,] To Flit and Remove themselves, their Wives, Bairns, Families, Servants, Sub-Tenants, Cottars, Goods and Gear, forib and from the saids Lands, and others above-written, with the Pertinents, and to desist and cease therefrom, and leave the same Void and Rid at the said Term of Whitsunday next to come, ilk one of them for their own parts, so far as they occupy thereof: To the effect, that I, my Tenants, Servants, and others in my Name, may enter thereto, peaceablie Bruick, Foice, Occupie, Labour and Manure, Set, Use and Dispose thereupon as my Heretage, at my Pleasure in time coming, conform to my Infeiment and Seasin thereof; And that ye use the baill remanent Order of VWarning against the fore-named Persons, for Removing from the Lands, and others above-specified, prescribed by the Acts of Parliament made thereanent: Certifying them, if they do in the contrary, and continue to Occupie, Labour and Possess the Lands, and others foresaids, after the said Term of Whitsunday next to come, they shall be holden and repure violent Possessors thereof, and compelled to make payment of the violent Profits of the same with all Rigor. According to Justice, as ye will answer to me thereupon; The which to do, I commit to you, conjuntlie and severallie, my Officers in that part, my full power, by this my Precept, (written by -----) and subscribed by me as —

The Act of Parliament, to which the Precept refers, is, Act 39. Parl. 6. Queen Mary 1555. And ordains Warning to be made at the Door of the Paroch Kirk, within which the Lands ly, on a Sunday, 40 days preceeding Whitsunday, in the Forenoon, in time of Divine Service, and some insert in the Precept that Order, which may be done thus, And sikelike, That, upon a Sunday 40 days preceeding the said Term of Whitsunday, in the Forenoon, that ye pass to the Paroch Kirk of B. within which the saids Lands ly, and openly, in time of Divine Service, Read, or cause to be Read, this my Precept, and lawfullie warn the saids -----, and all others having, or pretending to have Interest, to Flit and Remove themselves, and their Families, as said is: And that ye affix, and leave a just Copie of these Presents, upon the most patent Door of the said Kirk, that none pretend Ignorance of this my lawful Warning: And that ye use the baill remanent Order, &c.

Precepts of Seasin subjoin'd to Dispositions, Bonds for Infestment in an Annualrent, or other Heretable Right, are in this Stile — *And lastly, to the effect the said B. may be presently Infest in the Lands and others above-disponed, I by these presents desire and require you, — and ilk one of you, Conjunctly and Severally, my Baillies in that part, to the effect after-specified, specially Constitute, that immediatly after sight hereof, ye pass and give Heretable State and Seasin, with Possession corporal, actual and real, of all and sundry the Lands, Mills, Teinds, Patronages, and others above and underwritten, viz. (here repeat the Lands, &c. as in the Procuratory of Relinquishment) to the said B. or his certain Attorney in his Name, bearer hereof, by deliverance of Earth and Stone of the Ground of the foresaid Lands respective, and of Claps and Happers of the said Mills, and of an handful of Grass and Corn for the said Teinds, and of a Psalm Book for the said Patronage, &c. as use is in the like, conform to these presents, and Infestment to follow hereupon, or either of them, and to be holden either of me, or from me of my immediat Superiors in manner above express, and that this on no ways ye leave undone: The which to do, I commit to you conjunctly and severally, my Baillies in that part foresaid, my full power by these Presents.*

Of Assignations.

IF the Debt be not payed, and the Bond be not Discharged, the same may be conveyed to any person which is done by an Assignment.

An Assignment is a Write of Conveyance, and applyed only to such as relate to moveable Sums, Rents, or Duties; for when other moveable Goods, as Plenishing, Merchandice, or the like, are conveyed, the Writ is called a Disposition to Moveables.

He who grants the Assignment, is call'd the Cedent, and he who receives it, is term'd Cessioner or Assignee.

The Stile of a simple Assignment to a Moveable Bond whereupon no Diligence has been rais'd, is thus, *I A. for the Sum of 2000 lib. Scots, with the Annualrent thereof from &c. payed and delivered to me by B. wherewith I hold me well contented and satisfied, and Exoner, quite Claim, and simpliciter Discharge him, his Heirs and Executors of the same, renouncing all Exceptions that can be propon'd or alleg'd in the contrair,*

for ever; By these presents make and constitute the said B. His Heirs and Donators (excluding his Executors) my very lawful and irrevocable Cessioners and Assignees, in and to the Sum of 2000 lib. Money foresaid of Principal, and 300 lib. Money above-written of liquidat Expenses, contained in a Bond granted by C. to me, thereby design'd — my Heirs, Executors, or Assignees, of the date — and in and to the Annualrent of the said principal Sum, from — and in time coming, during the not payment thereof, and in and to the foresaid Bond, whole Tenor and Contents thereof, with all that has followed, or may follow thereupon, Surrogating and Substituting the said B. in my full Right and Place of the premises, for now and ever, with power to him, or his foresaid, to Ask, Create, Receive, Intromet with, and Uplift the Sums of Money, Principal, Annualrent and Expenses above-assign'd at their own hands, and to dispose thereupon at their pleasure, and to grant Discharges in their own Names upon the Receipt thereof, in whole or in part; and if need be, to cause Registrat the foresaid Bond, and use all manner of legal Diligence for recovering payment of the Sums above mentioned, Compen, Transact and agree thereanent, and generally all and sundry other thing anent the Premises to Do, Use and Exercee, that I might have done myself before granting of this Assignment: Which Assignment, I bind and oblige me, my Heirs and Executors, to warrant to the said B. and his foresaids from all Facts and Deeds done and to be done by me, or my foresaids, prejudicial hereto, allearly, to wit, that I have not made nor granted, and that I nor my foresaids, shall not make nor grant any Assignment, or other Right, or Discharge of the Premises assign'd that may be hurtful or prejudicial hereto in any sort: Likewise, I have instantly delivered to the said B. the Bond above-mentioned, unregistred, to be keep'd and us'd by him and his foresaids, as their own proper Evident at their pleasure in time coming. Registration, &c.

The Stile of Translations and Retrocessions shall be given hereafter, when we come to treat of Compound Writs.

In Assignations and Translations granted by Minors, with Consent of Curators, the Minor, with Consent foresaid, obliges himself to warrant the Right from proper Fact and Deed, and, in that Stile, the Explication of the Warrandice is seldom insert: As also, the Curators oblige themselves thus, — And I the said C. bind and oblige me, my Heirs and Executors, not only to warrant the Premises from my own proper Fact

Full and Deed alienably: But also, to cause the said A. and failing of him by decease, his nearest Heirs, to ratify these Presents, at their Majority and perfect Age of twenty one Years compleat; And, if need be, to reiterate and renew the same, keeping the Substance above-written.

When there is Money payed for granting an Assignment, it is either specially express'd, or in general Terms, thus, — *For a certain Sum of Money, and no more, and, when special, thus, — For the Sum of — Or, — For a certain Sum of Money, equivalent to the Sums hereafter assign'd.* In both which Cases, there must be a Receipt of the Money, and a Discharge thereof, and a Renunciation of all Exceptions, as in the preceeding Stile of an Assignment.

When part of the principal Sum contain'd in the original Bond, being payed, the remainder is assign'd, the Sums are mention'd in the Assignment in this manner, — *In and to the Sum of 2987 Pounds, only resting of the principal Sum of 4000 Pounds, and to a proportional part of the Sum of 400 Pounds of Penalty therein contain'd in a Bond granted by — to me, of the date, &c. And to the Annualrent of the said Sum of 2987 Pounds, during the use payment of the same, and in and to the said Bond, &c. with all that has followed, or may follow thereupon, in so far only as may be extended to the Sums of Money Principal, Annualrent and Penalty above-assigned, for now and ever, &c.*

An Assignment made by a Liferenter, to the Fiar of Moveable Sums provided to her in Liferent and contain'd in Bonds granted to her, and to the Fiar, are much of the same Form and Tenor with common and ordinary Assignations, and is thus,

I A. for divers Onerous Causes and Considerations moving me, by those Presents make and constitute B. &c. my Cessioners and Assignees, in and to my Liferent Right of the Sums of Money after-specified, and Annualrents thereof, whereunto I am provided, during my Lifetime, conform to the Bonds after-mention'd granted by the Persons after-nam'd, ilk one of them for their own parts, as is after-divided, to wit, the Sum of — as Principal, and the Sum of — of liquidat Expenses, contain'd in a Bond granted by — for my Liferent Use alienably, and to the said B. his Heirs, Executors or Assignees in Fie, of the date — [in like manner deduce the rest of the Bonds.] And in and to my

Liferent Right of the ordinary Annualrent of the said principal Sums, of all Tears and Terms bygone; resting unpayed, and in time coming, during the not payment thereof: And to the foresaid Bonds themselves, haill Clauses, Obligations, Tenors and Contents of the same, conceived, or that may be interpreted in my favours, with all that has follow'd, or may follow thereupon; And to all Action, &c. in the ordinary Stile: The Clause of Delivery in this Case commonly bears, so many of the Bonds to be delivered, as the Cedent had in her Custody.

An Assignment to Accompts is in this Stile, — Assigneys, in and to what Money, and other Profit shall be found due to me, upon the Result of a Compt and Reckoning betwixt me and B. surrogating, &c. with power to uplift, discharge and pursue for the same, and transact thereanent. In common Form.

When a Bond is taken in the Name of a Trustee, and by him assign'd to the Trustee, the Assignment, when there's no Diligence rais'd on the Bond, is in this Stile,

I A. acknowledge and confess, That albeit my Name be insert in the Obligement after-mention'd, yet the same was in Trust, and the Sums contain'd therein do truly and properly belong to B. to whom I have delivered the Annualrents thereof, which were resting preceeding the Term of Whitsunday last bypast, in respect the principal Sum was really lent by him, and my Name was only borrow'd thereto: And therefore I, by the Tenor hereof, make, constitute and ordain the said B. his Heirs, &c. In common Form.

An Assignment to bygone Tiend Duties, in a simple Form of Stile, is thus, I A. do hereby freely assign and dispoise to B. his Heirs and Donatars, the haill Tiend Duties, resting to me for my self, or as having Right from my Predecessors, of the Lands of —: And that of all Tears and Crofts resting unpayed, preceeding the Croft and Year 1704, with power to him, or his foresaids, to uplift and discharge the same; And, if need be, to call and pursue therefore, and to do what else is requisite, for recovering payment thereof, that I might have done my self before the granting of this Assignment, which I shall only be oblig'd to warrant from my own proper Fact and Deed alienarly: Declaring, That, if there be any Receipts, or Discharges granted by me, or my Chamberlains, of the said Tiend Duty, preceeding the Year 1704, the same shall not infer double Warrandice,
this

this Assignation being only granted for such Years thereof, as are resting.

From these few Examples, it is easy to form a Stile of an Assignation in any other Case: And what is needful to be said further concerning Assignations, is referred to the following part.

Of Compound Writs and Securities.

BY Compound Writs, I understand all these, wherein another is narrated, or which contains an Accumulation of divers sorts of Securities, and which commonly begin with, *Be it known to all Men, &c.* Having a Narrative beginning with this word, *Forasmuch as, &c.* and a Subsumption in these words, *And now seeing, &c.* with an Induction thus, *Therefore wit ye me, &c.* And because Compound Writs are so called from the various parts they consist of, before we proceed to speak of those, it is necessary to give some general Rules and Examples, how Simple Writs are abridg'd and narrated.

In abridging of Bonds, Discharges, &c. of any sort, when they are subjoin'd to other Writs, all the essential Clauses must be express'd; for they cannot be abridg'd otherways, than by omitting the Exegetick and Synonymous Words: And these Clauses, which are only Explicatory and Ampliations of others, all which are fully express'd, when the Bond, Discharge, &c. is in a Writ by it self.

In narrating Simple Bonds, and other Simple Writs, the same Rule is to be notic'd; for various Forms are us'd, according to the Design of the Paper in which they're narrated; for sometime one Clause is more particularly respected, and sometime another: But this is more particularly applicable to the narrating of Compound Writs.

A Bond of borrow'd Money may be thus narrated in the beginning of another Writ, *Forasmuch as A. by his Bond dated —, bound and oblig'd himself to have pay'd to B. the Sum of 12000 Pounds Scots of borrowed Money as principal, with Annual rent from Martinmas preceeding the date of the Bond, and that at Martinmas in the Year 1703, with 800 Pounds Money fore-*

forfeid of liquidat Expenses, in case of failure, and with the Annualrent of the said principal Sum, so long as the same should remain unpaid after the Term of payment forsaide, as the said Bond Registered in the Books of Council and Session, and a Decreet of the Lords thereof interposit thereon upon — more fully reports.

If the Bond be narrated in Letters of Horning at the Creditor's Instance, it is not mention'd, That the Debitor bound himself, and his Heirs, and Executors, nor that the Money was payable to the Creditor's Heirs or Assignays; It is otherways, if the Bond be mention'd in a Conveyance, or if the Horning be at an Assigney's Instance, or if the Bond be narrated in any Summons against the Debitor's Successors.

A common Bond, and the Sums therein-contained, in the Dispositive Clauses of Assignations, are thus narrated — *Assigney in and to the Sum of — of principal, and twenty Pounds of liquidat Expenses, contained in a Bond granted by C. to me, my Heirs or Assignays thereon, dated, &c. and Annualrent of the said principal Sum, since the Term of —, and in time coming, during the not payment thereof, and in and to the forsaide Bond it self, &c.*

But, when the Bond is mentioned in the Narrative of the Right and Conveyance, the same is, in the Dispositive Clause, thus briefly expressed, — *Assigney in and to the Sum of 200 Pounds, and 20 Pounds of liquidat Expenses, and the Annualrent of the said principal Sum from, &c. and in and to the forsaide Bond, and baill Tenor, &c.*

A Bond of Provision may be thus narrated, — *Forasmuch as I, by my Bond of Provision, of the date, &c. bound and obliged me, &c. to make payment to —, my Children, of the Sum of —, to be divided among them in manner following, viz. (here narrate the particular Sums, and other parts of the Bond, as if it were for borrowed Money.)*

In Narrating all sort of simple Bonds, Discretion and the Scope of the Writ in which they are to be Narrated, will direct what Clauses are to be more fully exprest; for no Essential one is to be left untouched.

Discharges are Narrated thus, *Forasmuch as A. by his Discharge of the date granted him to have received, &c. and there-fore*

fore Examined and Discharged the said ~~in~~ as is mentioned in the Discharge briefly.

The Bond for borrowed Money, or any other Right which has been Assigned; being Narrated in a Translation or Discharge, or other Conveyance thereof, the Assignment is narrated in this manner. — *Likeas, the said A. by his Assignment of the date, &c. made and constitute B. his Heirs or Donators, secluding his Executors, his very lawful and irrevocable Cessioners and Assignes, in and to the Bond above-mentioned, and whole Sums of Money Principal and Annualrents, and Expenses above specified, contained therein, as the said Assignment bears.*

Or thus — *Cessioners and Assignes in and to the Sum of 8500 Merks, and Annualrents thereof, from the Feast of Lam: 1701, and the said Sum of 1000 Merks of Penalty, and in and to the Obligation and Obligement for Infestment, and whole other Clauses and Obligements therein contained, as in the foresaid Assignment at more length is expressed.*

This last Assignment to the Clause of Infestment, is used only where there is no more then a naked Obligement to Infest, without either Procuratory of Resignation or Precept of Seisin; for Assignations to Heretable Bonds, whereupon no Infestment has followed, are otherways narrated, as shall be told in its proper place; and if Infestment has followed, the Right is conveyed by Disposition.

Another and more full way of narrating an Assignment. *Likeas, A. by his Assignment, dated &c. for the Causes therein express, made and constitute B. his Heirs and Donators, Cessioners and Assignes, in and to the foresaid three Bonds and Sums of Money, Principal and liquidat Expenses above-mentioned, therein contained, and to the Annualrent of the said three principal Sums, from the Term of Candlemas 1702, during the not payment thereof, and in and to the said three Bonds themselves, whole Heads, Clauses, and Obligements thereof, with all that has followed or may follow thereupon, as the foresaid Assignment more fully bears.*

To supply the Defects from the Writers studying Brevity, the Narrative of every Write concludes thus (*As the said Bond, Discharge or Assignment*) in it self more fully bears, or Proports,

or as in the said Bond at more length is contained or express, and the like.

Because we cannot here give Rules for narrating Writs, as yet not known, and set down in their full stile; we have thought fit in the end of this Treatise to subjoin a Section containing General Directions for Narrating Writs and Securities, and some Exemplifications in a few Cases.

Of Bonds Heretable.

AMong the first of Compound Bonds, I give place to an Heretable Bond, which in the beginning has the Clauses of a simple Bond, and differs only in that part of the Obligation which relates to the payment of the Annualrent, as will appear from the stile of both, after the usual Clauses of a Bond for borrowed Money, follows, 1. An Obligation to Infeft. 2. A Procuratory of Resignation. 3. A Clause or Obligation of Warrandice in short Form. 4. A Disposition of all Casualties of Superiority of the said Annualrent holden *de me.* 5. An Assignment to the Mails and Duties, in so far as extends to the Annualrent. 6. A Declaration that personal Execution shall not hurt the real Right. 7. A Precept of Seisin. 8. A Clause of Redemption. All which are in this stile.

Vve A. and B. By the Tenor hereof, grant us to have borrowed, and really received at Martinmas last bypast from C. the whole Sum of 20000 lib. wherewith we hold us well contented and satisfied, and Exoner and Discharge him, his Heirs and Executors of the samen, renouncing all Exceptions that can be proponed or alledged in the contrair, for ever; which Sum of 20000 libs. we by these presents bind and oblige us, our Heirs als well Male as of Line, Tailzie, Conquest, Provision, and all other our Heirs, Successors Executors, and Intrumetors with our Goods and Gear whatsoever, Conjunctly and Severally, renouncing the benefit of the order of discharging them, thankfully to content, pay, and deliver again to the said C. his Heirs or Assignneys (secluding his Executors) betwixt the date hereof and the Feast and Term of Whitsunday in the Year 1705. butt longer delay, together with the Sum of 3000 libs. Money foresaid of liquid Expenses in case of failzie, together also with the Annualrent and Profit of the said principal Sum Yearly and Termly at two Terms in the Year, Whitsunday and Martinmas by equal

equal Portions, beginning the first terms payment thereof at Martinmas next to come, for the half years Annualrent immediately preceeding that Term, and so forth termly thereafter at the Term above-specified by equal Portions during the not payment of the said Principal Sum, with 100 Merks Money foresaid of liquidat Expenses for ilk Terms failzie in payment of the said Annualrents toties quoties, but prejudice of suiting Execution hereupon at the Term of payment above-specified, or any time thereafter, without Requisition, notwithstanding of the Clause of Infeftment after-specified, and Infeftment to follow thereupon: And for further Security thereanent, we the said A. and B. bind and oblige us, our Heirs and Successors foresaids, with all convenient Diligence, and upon our own proper Charges and Expenses, to duly and lawfully Infeft and seise the said C. and his foresaids heretably, under Reversion, in manner after-specified, in all and hail an Annualrent of 1800 Merks Money foresaid, and in case Annualrents be altered, in such an Annualrent as shall be Correspondent to the foresaid principal Sum, conform to the Laws of this Kingdom for the time, yearly to be uplified at Whitlunday and Martinmas, by equal Portions furth of all and hail [here insert the Lands out of which the Annualrent is upliftable] or furth of any Part or Portion thereof, Mails, Farms, Profits and Duties of the same, and that by two several Infeftments in due and competent Form, the one thereof to be holden of us the said A. and B. Respective, our Heirs and Successors, and the other to be holden from us and our foresaids of our immediat Superiors Respective, of the Lands and others above-exprest, both in free Blench, for payment yearly of a Penny Scots Money at the Feast of Whitlunday, in Name of Blench Farm, if it be asked allenarly: And for effectuating of the foresaid Infeftment by Resignation, we the said A. and B. by these presents, make and constitutes

and ilke one of them, Conjunctly and Severally, our very lawful and irrevocable Procurators for us, and in our Names, to resign, &c. Likewise, we by these presents resign, &c. all and whole the foresaid Annualrent of 1800 Merks; and in case Annualrents be altered, such an Annualrent as shall be correspondent to the foresaid Principal Sum of 20000 lib. conform to the Laws of this Kingdom for the time, yearly to be uplified at the Terms above-specified, by equal Portions, furth of the Lands,

Barony, and others above-express'd, with the Pertinents, or any part thereof, readiest Mails, Farms, Profits, and Duties of the same, together with all Right, Title, Interest, and claim of Right, that we, our Heirs or Assignies had, have, or any ways may claim or pretend to the said Annualrent, during the not Redemption thereof, In the Hands of our immediat lawful Superior or Superiors Respective of the Lands, Barony, and others above-express'd, presently being, or that shall happen to be for the time, or of his or their Commissioners having power to receive Resignations in his or their Names, In Favour, and for new Infestment of the same to be made and granted to the said C. and his Heirs and Assignies foresaids, heretably, and under Reversion, always in manner after-specified, in due and competent Form, and thereupon Acts, Instruments, and Documents, &c. As in the stile of a Procuratory of Resignation. Which Annualrent and Lands, Baronies, and others above-mentioned, out of which the same is hereby appointed to be uplifted; we the said A. and B. bind and oblige us, and our above-specified, as said is, Conjunctly and Severally, to warrant, to be Free, Safe, and Sure to the said C. and his foresaids, from all Perils, Burdens, Impositions, Taxations, Cesses, Supplies, Retentions, and other Inconveniencies whatsoever, at all hands, and against all deadly, during the not Redemption thereof: And further, in case it shall please the said C. and his foresaids, to take the foresaid Annualrent holden of us the saids A. and B. in that case we bind and oblige us Conjunctly and Severally, and our foresaids, to enter and receive him, his Heirs and Successors, or any person to whom he or they shall dispoise the same from time to time, during the not Redemption thereof, Vassals to us therein, and that Gratis, and freely without any Composition or good Deed to be payed or done therefore, and also to dispoise in their Favours, Likewise, now as then, and then as now, we, by these presents, for us, our Heirs and Successors, Assign and Dispoise to them all Casualties of Liferent Escheat, Nonen-try, and other Casualties whatsoever that shall happen to fall in our hands as Superiors of the said Annualrent, during the not Redemption thereof, and that likewise Gratis, without payment of any Money or other Gratitude whatsoever. And moreover, for the more certain and sure payment of the said Annualrent, we the saids A. and B. by these Presents, make and constitute the said C. and his foresaids, our very lawful and irrevocable Cessioners and Assignies, in and

to as much of the first and readiest of the Mails, Farms, Profits, and Duties of the whole Lands, Baronies, and others above-specified due at Martinmas next to come, and thereafter during the not Redemption, as will satisfie and pay the foresaid Annualrent in manner, and at the Terms above-exprest, and termly Penalties thereof, in case of failzie, and to all Action and Execution competent to us therefore, and Surrogat and Substitute the said C. in our full Right and place thereof, pro tanto; which Assignation we bind and oblige us and our foresaids, Conjunctly and Severally, to warrant to the said C. and his foresaids, at all hands, and against all deadly. And it is hereby declar'd, that albeit the said C. shall use Execution hereupon, by Horning, Adjudication, Apprysing, or otherways, yet the Infeftment of Annualrent above-specified shall not be hurt nor prejudged thereby, but shall continue effectual, notwithstanding thereof, till the haill Sums above-specified be payed: And to the effect the said C. may be presently infest in the Annualrent above-mentioned, to be holden either of us the said A. and B. or from us of our immediat Superiors, or by both, or any one of the saids Holdings, the one butt prejudice of the other, in manner above-exprest, we, by these presents, desire and require you

and ilk one of you, conjunctly and severally, our Baillies in that part, to the effect after-specified specially constitute, That, immediately after Sight hereof, ye pass and give Heretable State and Seasin, with Possession Corporal, Actual and Real, of all and haill the foresaid 1800 Merks Money foresaid; And in case Annualrents be altered of such an Annualrent, as shall be correspondent to the foresaid principal Sum, conform to the Laws of this Kingdom for the time, yearly to be uplifted as the Terms above-specified, by equal Portions, furth of the Lands, Baronies, and others above-mentioned, with their Pertinents, or any part thereof, readiest Mails, Farms, Profits and Duties of the same, to the said C. or his certain Attorney in his Name, one or moe, Bearers hereof, by Deliverance of Earth and Stone of the Ground of the saids Lands, and also a Penny Money, as use is in the like, conform to these presents and Infeftments appointed to follow hereupon, or either of them, to be holden either of us the said A. and B. or of our Superiors, as is above-exprest, and that this on no ways ye leave undone. The which to do we commit to you, conjunctly and severally, our Baillies in that part foresaid,

our full power by these presents, providing always the said Annualrent be redeemable by us the saids A. and B. or our fore-saids, from the said C. and his fore-saids, by payment making to him at Whitsunday next to come, or any other Term of Whitsunday or Martinmas thereafter, of the fore-said principal Sum of 20000 Pounds, with the Annualrents thereof, and Termly Failzies of the same, that shall happen to be resting for the time, and of such Expenses as he shall disburse in procuring an Infeftment of the Superior, by Resignation or Confirmation, or in procuring Decrets for Poinding of the Ground, or using of other Diligence, conform to an Accompt to be given in by them to us therefore, without any Premonition to be made by us to him for that effect; And that these Presents, or a Double hereof, or an Extract of the Sasine to follow hereupon, shall serve as a sufficient Reversion for that effect, notwithstanding of whatsoever Act, Law, or Statute made, or to be made in the contrary. Follows the Clause of Registration, &c.

The Clause of Infeftment, or the Obligement to infeft, is diversly expressed, according to the Inclination of the Writer, as, And, for the said B. his further Security thereanent, I bind and oblige me, &c. Otherways, And we being further desirous to secure the said C. and his fore-saids, anent the payment to them of the Annualrent of the said principal Sum, until the repayment thereof: Therefore we, by these Presents, bind and oblige us, &c.

I have seen the Casualties of Superiority all Taxed and Liquidated in this Form, — Both in free Blench, for payment yearly of a Penny Scots, at the Feast of Whitsunday, upon the Ground of the said Lands, if it be asked alienarly, and for the payment of two Pennies Money fore-said, for the Entry of each Heir and singular Successor; And likeways, for payment of four Pennies Money fore-said yearly, during the haill Years that the said Annualrent shall happen to fall, and be in Non-entry, before Declarator: Which Sum of two Pennies Money fore-said is agreed unto, and ordained to be the Retoured Duty of the said Annualrent, and for payment of eight Pennies Money fore-said, that the said Annualrent shall ly in Non-entry after Declarator, and for payment of six Shilling eight Pennies yearly, for the Liferent Escheat of the said C. and his Heirs and Successors, so oft as the same shall happen to fall in the Hands of us, or either of us, our Heirs

Heirs or Successors; And which Liferent Escheats, we bind and oblige us, conjunctly and severally, and our foresaids, to dispose, like as we, per verba de presenti, now, as if the saids Liferent Escheats were already fallen, and then as now, for us and our Foresaids, by these Presents, dispose to the said C. his Heirs or Assignes, or any other he or they shall please to nominate, the same Liferent Escheats, for the payment of the said Sum of six Shilling eight Pennies yearly, during the Lifetime of that Person, whose Escheat shall happen to fall, and that either by Resignation, &c. And, in the Precept of Seisin, the same Duties were at length express'd. — To be holden either of us, and our foresaids, or from us and them, of our immediat Superiors, in manner above-express'd, and for payment of the Duties above-mention'd, viz. Here they are repeated.

When the Sum is to be payed upon Requisition, the Clause of Requisition is insert immediatly after the Term of payment, and before the Obligement for the Penalty, in this Form, ----- *At Candlemas next, in the Tear 1705, Requisition being always made by them to us, or either of us, ----- which shall be sufficient for both, personally, or at our Dwelling Places, in presence of a Nottar and VVitnesses, as effeirs, 40 days preceeding the Term, at which the Money shall be called for, and there being only 40000 Marks required at one Term, with the Sum of ----- liquidat Expenses, &c.*

In the Clause of Redemption, this relating to the Premonition was insert, ----- *And of such Expenses, &c. the Place of Redemption to be within the New Session-House of Edinburgh, at that place thereof, where the Commissars use to sit in Judgment, and the Consignation, in case of Absence or Refusal, to be in the Hands of the Dean of Guild or Treasurer of Edinburgh, upon the Peril and Hazard of the Consigner, Premonition being always made by us to them, 40 days preceeding each Term, personally, or at their Dwelling Places, in presence of a Nottar and VVitnesses, as effeirs, and that these Presents, or a Copy hereof, &c.*

In the Assignation to the Maills and Duties, this Clause may be insert, *And to cause the Tenants of the foresaid Lands and Barony enact themselves in a Fenced Court, for payment of the said Annualrent Termly, as it falls due. This is plac'd after the Warrandice of the Assignation.*

A Writer should know, by what manner of Holding, the Lands hold of the Superior, and so never to insert a Precept of Seisin, except he be sure, the Lands hold not Waird or Feu, with Condition *de non alienando*: However, if part of the Lands hold Waird, and part of them otherways, the Precept of Seisin ought

to mention only such as are not Waird; But, if it be doubtful, which are Feu, which are Waird, a Reservation may be adjected to the Precept in this Form, ----- Reserving always so many of the foresaid Lands and Tenendry of -----, which hold VVaird or Feud VVaird, conform to the Charters and Infeiments thereof: Under which Exception and Reservation, the said C. is to take Infeiment, and no otherways.

If the Heretable Bond bear Infeiment of Annualrent, to be taken out of the Lands, wherein the Debitor's Wife is infe in Liferent, it were proper, that the Wife did not only consent to this Bond, but bind her self with her Husband, through all the real Clauses thereof: The ordinary Practice bears, That the Wife consent to all the Clauses and Obligements relative to the Infeiment, and such Bonds should contain Obligement to cause the Wife ratifie her Consent or Obligements judicially, and the same ought accordingly to be ratified, as shall be fully told, when we come to Dispositions of Lands Liferented by a Wife.

When the Land and Estate, out of which the Annualrent is to be uplifted, belongs to the Wife in Property and Heretage, then she is mentioned in the Clauses of the Heretable Bond that concern the Infeiment, as the principal Party, and the Husband only consents in the same way, as in a Disposition of her Heretage: The Stile of which shall be given in its proper place; From the Form of which Dispositions, one may easily know, how to write an Heretable Bond in the two Cases above-mentioned.

When the Heretable Bond is granted by Principal and Cauti-
ners, this Clause may be insert, *And if I the said B. shall make pay-
ment of the Sums contained in this Bond, in what case, the said C. and
his foresaids, shall be holden to assign to me the foresaid Infeiment upon
the said A. his Estate, with what Diligence has followed thereupon,
with VVarrandice from their own proper Fact and Deed.* Follows the
Clause of Relief, and both these are put in the last part of an He-
retable Bond, and before Registration.

Of Bonds and Assignations conjoin'd.

When the Creditor thinks the Personal Security is not suffi-
cient, and the Debitor has no Real Estate, but only
Moveable, for the first is ay to be preferred: Then, to the Simple
Bond of borrowed Money, is subjoined an Assignation to Bonds,
or to Moveable Goods; In the first Case, the Stile is, *And for the
said B. and his foresaids, their further Security, I the said A. by these
Presents, Assign, Transfer and Dispose from me, &c. to the said B.
and his foresaids above-written, as much of the first and readiest of the
Sums*

Sums of Money due to me by, whatsoever Person or Persons, especially of the Money due to me, &c. Or otherwise I may have Right from any manner of way, as will satisfy and pay the Sums of Money principal, Annualrents and Expenses above-specified, contained in this Bond: Surrogating and Substituting the said B. and his forefairs, in our full Right and place thereof pro tanto for ever, with power to him, and his forefairs, to ask, crave, receive, intromet with, and uplift the same, to grant Discharge thereof, in bail or in part, in their own Names; And, if need be, to call and pursue therefore, and use all manner of legal Diligence for recovering payment thereof, and generally, all and sundry other things ancient the Premises, to do, use and execute, which I might have done myself before the granting of this present Assignment: VVhich Assignment and Translation, I bind and oblige me, and my forefairs, to warrant to the said B. and his above-specified as all Hands, and against all Doodly. Follows the Clause of Registration.

In the second Case, when Goods are disposed, the Stile is, by these presents Sell, Assign, and Dispose to him and his forefairs, all and bail. Here set down the particular Goods, whether Cattel, Corns, Plenishing, or others: And then follow the Stile of a Disposition of Moveables, as shall be shown hereafter.

It were proper that the Goods were valued, and one bound Caution to make them furthcoming, being generally poor Debtors are left in the Possession of the Goods, though disposed, which may be express'd in this, or the like Stile.

And for securing the Right of the said Goods, J. C. as Cautioner, &c. bind and oblige me, &c. that the whole Goods above-mentioned, or the values thereof, according to the price above set down, shall be furthcoming to the said B. and his forefairs, and in case any of them be wanting or spoiled and deteriorated, I oblige me to make the same, or as good, or at least the value thereof, furthcoming to him, as accords.

Of Bonds by Factors, and these granted upon a reserv'd Faculty to burden another Person, and his Estate.

Those Obligations which are granted by Factors, or those to whom the Management of a special business is committed, with power to borrow Money for the Constituent's use, are very rare, and uncommon; However, for Institution sake, know, that they may be in this Form, they begin with these Words, Be it known, &c. next the Faculty is narrated, and particularly the power to borrow Money; Then it is subjoin'd, That C. upon the Faith of the said Factor and power above-mention'd therein contain'd has advanced and paid to the Factor the Sum of 1000 lib. Scots Money,

where with

wherewith he holds himself well content, &c. In the stile of a Bond, Therefore wit ye him as Father foresaid, and by vertue of the Power and Faculty above-specified, to have bound and oblig'd: Likas, &c. The said B. his Heirs and Successors whatever, thankfully to Content, Pay, and Deliver, &c. As in a Bond of borrowed Money.

It is proper that the Bond mention the Business and Use the Money was to be employ'd in, as is set down in the Bond granted by the Deacon and Masters of an Incorporation.

Like unto this sort of Obligation, and which are more in use, are Bonds granted by persons, who, in a Disposition of their Estate, had reserv'd a Power and Faculty to burden the said Estate, and the Purchaser thereof, with the payment of certain Sums. The which Bonds are in this Form, or the like.

Be it known, &c. me A. forasmuch as, by the Contract of Marriage past and perfected at ----- upon ----- betwixt ----- by vertue whereof, and for the Marriage then Contracted, and thereafter Solemnized betwixt my said Son and the said ----- I Gave, Granted, and Disposed to the said A. my said Son, and his Heirs of Tailie therein-mentioned, all and sundry, the Lands and Barony of ----- as they are more particularly designed in the foresaid Contract, under the Reservations therein specified, particularly there is reserved to me by my self alone, without the consent of the said A. my Son, to burden the said parts of the foresaid Lands and Baronies of ----- whereof the Life-rent is reserved to my self, with the Sum of ----- in case I should think fit so to do, payable to any person or persons I pleased, within the year and day of my Death, with 10 Merks of Penalty for each 100 lib. of Principal in case of failzie, and Annualrent of the said principal Sum, so long as it shall remain unpaid after the Term of payment foresaid, and to grant Bonds bearing Infeftment either in Proximity or in Annualrent for further Security thereof, which the said A. and his foresaids are thereby holden to perform and fulfill, and which Sum of ----- the said A. binds and obliges him, his Heirs and Successors, to pay to the Person or Persons, to whom I shall appoint the same to be payed, and that at the Term of payment above-mentioned, with the foresaid Penalty, in case of Failzie, and Annualrent for the said principal Sum so long after, as the same should happen to remain unpaid, and that whether the same be due by Moveable or Heretable Bond, as in the foresaid Contract is at more length exprest: Likas, by another Contract Matrimonial, of the date at -----, betwixt B. my second lawful Son on the one part, and ----- on the other part, by vertue whereof, and for the Marriage then Contracted, and thereafter Solemnized betwixt them, I bound and obliged me, my Heirs, Successors and Executors, betwixt and the Term of Martinmas last bypast, to pay to the said B. my Son, his Heirs, &c. the Sum of ----- with the

the Sum of — of liquidat Expenses in case of Failure, with the ordinary Annual Rent of the said Principal Sum, from the said Martinmas last bypast, during the term of payment of the same, as in the foresaid Contract as more length is contained. And I being now Resolved, to appoint 14000 Merks, as a part of the 40000 Merks, wherewith I have power to burden the said D. my my Eldest Son, and the Lands above-mentioned, due by me to him for payment of the said 14000 Merks, which I am bound to pay to the said B. my second Son, the said above-mentioned. Therefore wit ye me, to have Analized, Sold and Disposed, As I, by these presents Analize, &c. to the said B. my Son, and — his Spouse, and to the longest liver of them two in conjunct Fee and Liferent, and to the Heirs Male, lawfully procreat, &c. the Sum of 14000 Merks, as a part of the said Sum of 40000 Merks, with the proportional parts of the Bonds above-mentioned effe and thereto, and the Annulment of the said 14000 Merks, so long as the same shall remain unpaid after the year and day immediately following my decease: As also, the said Contract of Marriage past betwixt my Eldest Son and his said Spouse, with the Reservation above-mentioned, contained therein, and Obligation granted by the said A. relative thereto, so far as they may be extended to the said Sum of 14000 Merks above-mentioned, thereof, and a proportional part of the Penalty hereby Analized and Disposed. And for further Security thereunto, I the said A. and I the said A. bind and oblige me, our Heirs, &c. to make due and thankful payment to the said B. and — his Spouse, and to the longest liver of them two in conjunct Fee and Liferent, and to the Heirs Male procreat or to be procreat betwixt them, &c. the Sum of 14000 Merks, and that at the Feast and Term of — but longer delay, with the Sum of 1400 lib. of liquidat Expenses in case of Failure; Together also with the ordinary Annulment of the said 14000 Merks, conform to the Act of Parliament and custom of this Kingdom, Termly, Monthly, and Proportionally, so long as the same shall remain unpaid after Martinmas, in this year 1703, but prejudice of sitting Execution at the Term of Payment contained in this Bond, on any time thereafter, without Requisition: And because the said A. is not liable to me the said A. for the satisfaction of the said Sum till year and day after the said Term. Therefore I the said A. bind and oblige me and my heirs, &c.

warrent, &c. the Annualrent of the said Principal Sum, from Martinmas next till year and Day after my decease, and of all Cost, Skaitb, Damage, Interest, and Expense that be or his forefathers should happen to sustain or incur therethrough in any sort. And I the said A. bind and oblige me, and my forefathers to warrent the said A. my Father, and his forefathers, of the said Sum of 14000 Marks, and of the Annualrents thereof, and Penalties forefathers, after year and day immediately following his decease, and of all Cost, Skaitb, Damage, Expenses, or Interest, that he or his forefathers shall happen to sustain or incur there-through, in any sort.

Of Qualified Bonds.

Bonds are either pure or simple, without any Quality, Condition, or Restriction; Or, they are Qualified, that is, They have not so ample effect as the other sort, but are Limited, and have only a certain Effect, as the Provisions in the Bond determine.

These Conditions, Restrictions, and Limitations are Various, according as the Party pleaseth: But, it is to be noticed, That they are not determined by the Debtor in the Bond, who is precisely bound to pay the Money, but they are formed at the Will and Determination of the Creditor, who may dispose of his own as he pleaseth. Tho when a Man by way of Donation, obligeth himself to pay a Sum of Money, he may adject to the Bond what Conditions and Qualities he thinks fit.

The forming of pure and unqualified Bonds, may be known from what has hitherto been delivered. I shall now give Examples of qualified Bonds, for there may be as many of them, as a Man may devise, of Conditions and Limitations, which are indefinit: And from the following Examples it shall be easie to know how to draw any other qualified Bond.

When a Man has sold Land, against which others may have a Claim; and in that Case it may be advised that legal Diligence will establish a better Right than a Voluntary Disposition; In which Circumstance, the Purchaser buys with the Price, all Adjudications, Appraisings, and other real Rights
on

on the Estate; and by a Provision in the voluntary Disposition he is allowed to do, and also to impute and ascribe his obligation to any one, or to all of these, or to the voluntary Right, as he pleases: However, to make up all Defects, he takes a Bond from the Seller for a considerable Sum of Money, at least for the Price payed, of design to lead an Adjudication; And the Bond is in this Stile, *I A. by these presents grant me to have recieved from B. for himself, and in Name and behalf of his Grand-Children, after-named, the whole Sum of 25000 Marks Scots Money, whereof I discharge him and all others whom it effects, and renounce all Exceptions of the Law that can be proponed or alleged in the contrair; which Sum of 25000 Marks, with the Annualrent thereof from the date hereof to the Term of payment after-mentioned, I bind and oblige me, my Heirs and Successors, Executors and Intromettors with my Goods and Gear what so ever, to Content, Pay, and Deliver again to the said B. he being on life, and failzieing of him by decease to — and that betwixt the date hereof and the — day of — next to come butt longer delay, together with the Sum of 1200 lib. Money foresaid of liquidat Expense in case of failzie, together also with the ordinar Annualrent of the said Principal Sum conform to the Act of Parliament and Custom of the Kingdom of Scotland, Tearly, Termly, Monthly, and Proportionally, so long as the same shall happen to remain unpaid after the day of payment above-specified, butt prejudice of suing Execution hereupon, then or any time thereafter, without Requisition. It is always hereby provided and declared, That it shall not be lawful to the said B. nor his Grand-Children, or any of them, their Heirs or Assignes to use any Execution upon this Bond, personal or real against any other Estate real or personal belonging to me, my Heirs or Executors, but alienarly against the Lands and others after-mentioned, viz. — R. which Lands and others above-mentioned are sold by me to the said B. and failzieing of him by decease to the said — his Grandson and his Heirs, which failzieing to the other Substitute Heirs mentioned in the foresaid Disposition, and for securing them in that Purchase, either by Adjudication, or other ways as they please, this Bond is alienarly granted. Registration.*

When an apparand Heir intends to quarrel Apprising, Adjudications, and other legal Diligence led against his Predecessors Estate, he uses to grant a Bond for borrowed Money to a Trusty, to the end an Adjudication being deduc'd,

duc'd, there may be a valid and sufficient Title for quarrelling and reducing Antecedent Diligence, or for proving the Creditors therein payed by Intromission: The which Bond may contain such Qualities and Conditions as this above-mentioned.

Another sort of qualified Bonds, is when the Sum is Tailzied with certain Provisions, as when the Money is given to a Son or Daughter, so that it cannot be affected by Creditors, as in the following Example. *Be it known to all Men by these presents, me A. Forasmuch as, by a Disposition and Tailzie of this date, I have disposed to my Son B. and his Heirs Male of Tailzie and Provision therein-mentioned, my whole Lands and Estates therein-mentioned, under the Reservations, Provisions, Restrictions, and Declarations therein specified; and particularly with this Provision, That the said B. and his foresaids, shall be holden and obliged to pay all just and lawful Debts already contracted, or that shall happen to be contracted and be due by me the time of my decease: And also, to pay all Sums of Money that it should happen me to Provide, Leave, or Bequeath to whatsoever Person or Persons at any time in my Life, vel in ipso articulo Mortis, as in the foresaid Disposition and Assignment at more length is contained: And I being Resolved, that C. my Second Daughter, Spouse to — and the Children Procreat or to be Procreat betwixt her and her said Husband, shall be secured in 20000 Merks Scots Money, in manner after-mentioned, and under the Provision always after-specified: Therefore, wit ye me, to be bound and obliged; Likewise by the express Quality of the said Disposition and Tailzie above-mentioned, I bind and oblige me and the said B. my Son, and his Heirs Male of Tailzie and Provision, succeeding to my Estate, to make due and thankful payment of the Sum of 20000 Merks Money foresaid, to the said C. in Liferent, and after her decease 600 Merks of the Annualrent of the said Sum yearly, to D. her Daughter, during all the days of her Lifetime, and the Five of the said whole Sum to belong to my saids Daughters other Children Procreat, or that shall happen to be Procreat betwixt her and the said — equally amongst them; and failing of any of them by decease, to the surviving Children, their Heirs of their own Body, or Assignes for an Onerous Cause; which failing, to return to the said B. my Son, and his Heirs Male* and

and of Tailzie and Provision succeeding to my Estate, and that at the Terms following, viz. 5000 Merks thereof at the first Whitsunday or Martinmas next, and immediately following my decease, and the decease of my said Daughter, and other 5000 Merks within a year thereafter, and another 5000 Merks within a year after the second Term of payment; and other 5000 Merks in compleat payment of the said whole Sum within a year after the third Term of payment, with the Sum of 10 Merks for each 100 Merks of the said Principal Sum of liquidat Expenses in case of failie, and with the ordinar Annualrent of the said Principal Sum so long as the same shall remain unpaid after the first Whitsunday or Martinmas following their decease: And further, wit ye me, butt prejudice of the said 20000 Merks, to have Given, Assigned, and Disposed, as I by these presents Gift, Assign, and Dispose to the said C. my Daughter in Liferent, and to the Children Procreas, or that shall be Procreas betwixt her and the said — except the said D. and to their Heirs or Assignies, and failing any of them by decease, to the surviving Children, their Heirs or Assignies, which failing, to the said — their Father, his Heirs or Assignies, secluding his Executors, the Sum of 10000 Merks Scots Money of Principal, with certain liquidat Expenses specified in the Bond after-mentioned, and Annualrents of the said Principal Sum, from and after the first Whitsunday or Martinmas immediately following my decease, when the same shall happen, contained in a Bond granted by — to me, my Heirs or Assignies, of the date the — day of — and also the foresaid Bond it self, and all that has followed or may follow thereupon, with this expresse Provision and Condition always: Likeas, it is hereby specially provided and declared, That the said Sum of 20000 Merks, nor this Sum of 1000 Merks, hereby Assigned, shall noways be affected with, nor liable to the said — his Jus. Mariti, nor to any Deeds contracted, or to be contracted, or done by him; And that it shall be lawful to my said Daughter, by her self alone, without his Consent, to uplift and Discharge the Annualrent of the said Sums, and apply the same to her own use as she shall think fitting during her Lifetime, in respect that the foresaid two Sums of 20000 Merks and 1000 Merks are freely gifted and bestowed by me upon her and her Children, only for the Love and Kindness which I have and bear to them; And for that effect, I have

have appointed the Annualrents of the saids Sums to be payed to her during her Lifetime, to be disposed as she shall think fit, and the Pie to belong to her other Children, in manner above-avoided; which failing, as said is, and it is likewise hereby provided and declared, That if the said my Daughter, shall through the death of the said — her Husband come to the Possession of her Foriture, in that case, the said D. his Daughter is immediately thereafter to enter to the said 600 Marks yearly, and the remainder of the said Annualrents of the said whole 20000 Marks is to belong to her other Children from that time forth: And I bind and oblige me, my Heirs and Successors to warrant the foresaid Assignment to my said Daughter and her Children, from my own proper Feit and Deed altogether, and to deliver to her the Bond above assigned to keep by her for her own and her Childrens use and behoof after my decease: And lastly, I declare that this shall be a valide Evidence in Favours of my said Daughter and her Children, which failing, as said is, albeit the same be lying in my own Custody, or in the keeping of any other person undisturbed to her the time of my decease, notwithstanding of whatsoever Act, Law, or Pratique made or to be made in the contrair, wherewith I for me and my Heirs by these Presents dispencc for ever. Registration.

Of Bonds of Provision in Implement of a Contract of Marriage.

IN the former part you have the Stile of simple Bonds of Provision: Now, in this you are to know the form of these which are in Implement of a Contract of Marriage, and they are in this or the like Stile, Be it known, &c. me A. Forasmuch as by the Contract of Marriage made at — upon the — day of — betwixt me on the one part, and — my Spouse, with Advice and Consent of — on the other part, for the Marriage then contracted, and thereafter solemnized betwixt us, I bound and obliged me, and my Heirs, &c. to have made payment to the Children then to have been Procreat betwixt me and my said Spouse of the Sum of 60000 Merke Money of this Realm, at the Terms, and upon the Conditions and Provisions following, viz. If there should happen to be more Children of the said Marriage then one Son, in that case the foresaid Sum was to be divided amongst them in such Proportions as I should appoint in my own time; and if there should be but one Son of the foresaid Marriage, then the foresaid Sum was to be restricted to 50000 Merke Money foresaid; and if there should be no Son, but Daughters, in that case, the foresaid Sum of 60000 Merke was to be restricted to the Sums following, to wit, if there were but one Daughter, to the Sum of 25000 Merke Money foresaid; and if there were two Daughters, to the Sum of 30000 Merke, and

and if there were three or more Daughters, to the Sum of 40000 Merks Money above-written, to be divided amongst them in I should appoint: Which Proportions and Sums above-written, I bound and obliged me and my forefairs, to pay to the Male Children to be gotten of the foresaid Marriage at the Age of Fourteen years compleat, and to the Daughters at their Age of Twelve years compleat: And for their Intertainment, Breeding, and Education yearly, after my decease, I bound and obliged me, my Heirs and Successors forsaids, to pay to my saids Children the Sums of Money following, if there be one Child, the Sum of 600 Merks yearly, until the said Child attain the Age of six years; and if there be two Children, the Sum of 800 Merks yearly; and if there be three or more Children, the Sum of 1000 Merks Money foresaid yearly, and as and while the said Children attain to the Age of six years compleat, and from the Age of six years until the Male Children attain the Age of Fourteen, and the Daughters Twelve, to make payment of the following Sums for their Intertainment, Breeding, and Education, viz. 2200 Merks yearly for one Child, 1600 Merks yearly for two, and 2000 Merks yearly for three or more, to be payed at two Terms in the year, Whitsunday and Martinmas by equal Portions, and the first Terms payment to begin at Whitsunday or Martinmas next and immediately following my decease for the half year preceeding, and so forth Terms thereafter, according to the obligation above-mentioned, till the saids Children should attain to their respective Ages of Twelve and Fourteen years compleat, as said is, and after their attaining to the saids Ages, to make payment to them of the Annual rent and Profit of the saids Sums and Portions yearly and termly, so long thereafter as the Sums shall remain unpaid, in the foresaid Contract Matrimonial property: And now being it hath pleased GOD already to Bless me with three Children of the foresaid Marriage, B. C. and D. whom I am now resolved to Provide and Secure, according to my Obligments in the foresaid Contract: Therefore, in Corroboration thereof, and butt Prejudice or Derogation thereto, or to any Diligence competent to follow thereupon sed accumbando iura iuribus, wit ye me to be bound and obliged: Likewise, by these presents bind and oblige me, and my Heirs, &c. to make payment to the saids B. C. and D. &c. (here follows the Bond in common Form, according to the Agreement in the Contract)

This Bond was in Implement of a Contract of a Second Marriage, the Land Estate of the Father being Inherited by a Son of the first Marriage, who was Heir presumptive.

11. A Bond of Protection, whereby one may be two kinds: 1. A Bond of Protection before a Judge and Justice of the Peace, and 2. A Bond of Protection before a Justice of the Peace only.

Of Bonds ad facta prestanda Compound.

FROM what hath been said concerning Bonds for performance of Deeds simple, in the first part, and from the Knowledge of the Nature of a Compound Writ, you may know how Bonds *ad facta prestanda* Compound, are formed; yet we shall for further Illustration, give you a few Examples of this kind in some remarkable Cases, very fit to be known. As,
 1^{mo}. A Bond to cause a person absent sign a Bond, Be it known to all Men by these presents, me A. whereas B. has presently lent to me the Sum of ---- Scots Money, for which Sum there is a Bond granted to her by me, bearing Annualrent from this day, and liquidas Expenses: And seeing that ---- are also to sign the same Bond, and therein become bound with me, but are not now in Town to subscribe the same, Therefore I bind and oblige me, my Heirs and Executors, betwixt the ---- day of ---- instant, to deliver to the said B. her Heirs or Assignes, a Bond for the Sums above-mentioned, duly subscribed by me and the said ---- before famous Witnesses, and to be Verbatim of the Tenor of the Bond now delivered for the said Sum, which is only subscribed by my self; and it is to be given back to me upon the delivery of the Bond subscribed by us all, and that under the penalty of ---- Money foresaid, by and attour performing of the Premises.

Otherways thus,

Be it known, &c. me A, whereas I have instantly received from B. the Sum of 1000 Merks Scots Money, which I have borrowed from him for the use and behoof of C. But seeing the said C. is not in this place to subscribe a Bond for the same, and that the said B. is content to accept of my Obligation under-written: Therefore, I bind and oblige me, my Heirs, Successors, and Executors, to deliver to the said B. a common Moveable Bond duly subscribed by the said C. for payment making to him, his Heirs or Assignes of the foresaid principal Sum, at the Feast and Term of ---- with the ordinary Annualrent thereof, from ---- during the non payment of the same, with 100 lib. Money foresaid of liquidas Expenses, and that betwixt and the ---- day of ---- next to come, be always upon my delivering to him the said Bond, being obliged to give up to me this my Obligation, Or otherways to make payment my self of the said Principal Sum and Annualrents upon the said ---- day of ---- and that under the Penalty of ---- Money foresaid in case of failzie, by and attour performance of the Premises.

II. A Bond of Presentation, whereof there may be two kinds; As first, for compearance before a Judge and *Judicio Sisti*, the
 Stile

Stile of which is in Page 26. The second sort is an Obligation to present a Debtor to the Prison, or otherways to pay the Debt; The Stile whereof is thus,

A Bond of Presentation.

BE it known, &c. me A. Forasmuch as B. by his Bond, &c. (here narrate the Bond) Whereupon the said C. raised Letters of Horning, and by vertue thereof caused charge the said B. to make payment to him of the Sums of Money, Principal, Annualrents, and Penalty above writtten; And also purchased Letters of Caption, and by vertue thereof caused apprehend his Person: And now seeing that at my earnest desire the said C. is not to put the foresaid Diligence to further Execution, but is willing to permit the said B. to go about his lawful Affairs in Freedom, till the time after-specified, upon my granting the Bond under-written. Therefore, wit ye me to be bound and obliged: Likewise, I &c. to present the Person of the said B. to the said C. or any having his Commission at Edinburgh, in the House of ----- upon the 15th. day of September next to come, betwixt the Hours of Ten and Eleven in the Forenoon, without longer delay, Fraud or Guile, then and there to be personally apprehended and disposed upon at the will and pleasure of the said C. or any having his Warrant and Commission, conform to the said Letters of Caption in all points, and that in als good Condition as he presently is, without any Suspension, Protection, Celio Bonorum, or other Ground and Warrant whatsoever that may stop, let, binder, or impede the said C. his apprehending the Person of the said B. lucrerating of him, or putting the said Letters of Caption to their full and final Execution in all points, and that under the Penalty of ----- Scots Money in case of failzie, by and attour Performance of the Premisses. Registration.

The Alternative of the Bond may be thus; Or otherways, at the said time and place to make due and thankful payment to the said C. and his foresaids, of the whole Sums of Money, Principal, Annualrents, and Expenses contained in the Bond and Diligence above-mentioned, and due by vertue thereof, and that under the Penalty of ----- &c.

I have seen a Bond of Presentation subjoined to a Bond of Corroboration thus, ----- And in case punctual payment shall not be made of the said 1000 Merks, in that case, I A. do hereby bind and oblige me, &c. to present the Person of the said B. Prisoner within the Tolbooth of Edinburgh, from which he is now liberat with consent of the said ----- there to remain Prisoner at his instance, ay and while he fulfill to him the Command of the Letters of Horning whereupon the Caption is founded, and that without any Suspension, Protection, or any other Warrant, for Sisting Execution, or interrupting the Diligence at his instance a-

(21)
against him, and if I shall fail in presenting him to the said Tal-
lants, in manner foresaid, upon or before the 15th. of September next,
then, and in these Cases, or either of them, I the said A. bind and oblige
me, and my foresaids, to make payment to the said Tal-
lants, of the said Sum of 1000 Merks, betwixt and the 20 of Septem-
ber next to come, with the Sum of 100 lib. Money foresaid of liquidat-
ion in case of failie, and Annuallents of the said principal Sum, so
long as the same shall remain unpaid after the time foresaid. In this
Case the Bond of Corroboration was granted by one, and the
Bond of Presentation by another.

III. A Bond of Relief. Be knownn, &c. me A. Forasmuch as,
B. and C. have by a Bond of the date, engaged themselves as Conjunct
with me, for payment to the Sum of 6000 lib. at the term of
the year with 600 lib. Money foresaid of liquidat-
ion in case of failie, and Annuallents from Martinmas in the year, during
the said payment, at the said Bond more fully bears. And being the
said B. and C. became only obliged thereto as my defac, the foresaid
whole Sum of 6000 lib. being received by me, applied to my own proper
use; so that in all Equity and Reason they ought to be Relieved thereof
and secured from any Prejudice they may sustain thereby. Therefore,
wit ye me to be bound and obliged; Likewise, &c. me, my heirs, Success-
ors and Executors, &c. to Warrant, Free, Relieve, and Shaitheless
keep the said B. and C. their Heirs and Executors of the Bond above-
mentioned, and of the whole Sums of Money, Principal, Annuallents,
and Expenses above-specified, contained therein, and of all Cost, Shaithe,
Damage, Expenses and Interest that they or either of them, or their
foresaids shall happen to sustain or incur there-through in any sort; and
for that effect, at Whitsunday next, to make payment to the said
of the foresaid principal Sum, with what Annuallents thereof shall be
resting for the time, and retire from them the Bond above-mentioned, and
deliver to them and each of them their Subscriptions thereon, or other-
ways a sufficient Discharge thereof, and that under the Pain and Penal-
ty of 600 lib. Scots Money, to be paid by me to them in case of failie,
by and at our fulfilling of the Premises. Registration.

A Bond of Relief to a Cautioner in a Suspension. Be it knownn, &c.
me A. Forasmuch as I was lately charged by virtue of Letters of Imp-
ping purchased against me at the instance of B. to make payment to him
of the Sum of (as in the Charge.) And being, as my earnest Re-
quest and Desire C. is become Cautioner for me in the Suspension there-
of, and that Equity and Reason requires that he and his should be freed,
Relieved, and Shaitheless kept therein, and of all Danger that may
follow to them thereby; Therefore, wit ye me to be bound and obliged; Likewise

Likeas, You shall happen to sustain and incur thereunto by any
Registration.

Another Bond of Relief in a Singular Case.

Be it known, &c. me A. Forasmuch as &c. (here narrate the principal Bond). And being the said B. is become bound, and has engaged himself in the foresaid Debt, upon Consideration that he is resting to me the Sum of —. And that it is intended, that what he shall pay thereof shall be allowed to him of the foresaid Debt; and that he shall be Discharged thereof pro tanto; Therefore, withe me, my heirs and obliges: Likeas, &c. me my heirs, Successors, Executors, &c. also the said B. shall make payment of the foresaid Sum, to Debtor, Allow, and Discharge as much of the first and readiest of the Money due by him to me; and which Discharge shall contain absolute Warrantice; and all other needfull Chances; And in case the said B. shall not at that time be Debitor to me, then and in that Case, I bind and oblige me, &c. to Free, Relieve, &c. in common form as above: And for his further Security thereunto, if he shall not be Debitor to me, as said is, do hereby Consent that he take Assignment to the Debt wherein he stands bound for me, and to the Sums of Money contained therein, and to the Securities granted for the same upon my Estate, or otherwise, and that he use such Diligence as he shall think fit thereupon, as and while he obtain Relief and payment, as said is: Registration.

IV. A Bond of Warrantice, when one having disposed Lands with warrantice only from proper Fact and Deed, and thereafter upon another Agreement is to give Warrantice absolute; the Bond is thus:

Be it known, &c. me A. Forasmuch as (here the Disposition is narrated) and it being very just and reasonable, that the said B. be secured in the Lands and others above disposed, at least, in so far as may extend to the Sum of —, which was truly paid by him to me, for the granting of the Rights and Disposition above-mentioned; Therefore, in Consideration of the Clause of Warrantice contained in the foresaid Disposition, and but Prejudice or Derogation thereto, or to any Diligence competent to follow thereupon, sed accumulando jura juriibus, withe me to bound and obliges: Likeas, &c. to Warrant, Acquit and Defend the Lands and others above-rehearsed, contained in the foresaid Disposition granted by me to the said B. to be Free, Safe, and Sure, &c. As in the Clause of Absolute Warrantice of a Disposition to be declared in that part which treats of Dispositions in time coming, excepting and reserving always from this present Warrantice the foresaid Gift of Waird and Non-entry, which is assigned by me to the said B. and also excepting all bygone publick burdens, from which I shall not be obliged to warrant the said Lands, and also excepting the Right and Waives or Infeudment of the Lands and others above-rehearsed, granted to D. And further, with this Declaration, That if the Lands and others fore-said shall happen to be evicted from the said B. in

that Case, all Action and Recourse as by Instance against me upon the Clause of Warrandice contained herein, shall be, and hereby is restricted to the said Sum of ----- payed by him to me for granting thereof, with the Annualrent of the said Sum, from and after the Eviction, during the not payment thereof, or till the said B. and his forefairs be re-entered to the Possession thereof, the said B. and his forefairs making Intimation to me and my forefairs of any Action that shall be intended for Eviction of the said Lands, or any Annualrent or yearly Duty furth thereof, and that before Litiscontestation.

V. A Bond of Relief and Warrandice to a person who was owing Money to another who was Debitor to the granter of this Bond, and who had made payment of the Sums upon a Decreet of Furthcoming obtained against him, the Sums being not only Arrested by others, but also assign'd by the Creditor; And it being agreed, that the receiver of the Money should warrant the payment. The Bond is in this Form, He is known, &c. me A. Forasmuch as B. did Arrest certain Sums of Money in the hands of C. alledged due by him to D. to have remained under Arrestment till the Debt mentioned in the Copy alledged due by the said D. to the said B. should be payed: As also, the said D. did assign to E. certain Sums of Money which D. pretended to be due to him by the said C. and which Assignment was intimat to him; and I have lately recovered Decreet against the said C. for payment of certain Paris and Portions therein mentioned of the principal Sum of 20000 lib. and Annualrents thereof contained in a Bond granted by the said C. to E. dated ----- And seeing the said C. at his payment to me of the Sums whereunto I was preferred by the foresaid Decreet, desired not only a Discharge with absolute Warrandice, which accordingly I have granted upon the Day and Date of these Presents; but also to be secured from the foresaid Arrestment and Assignment: Therefore, witte me as Principal, and G. as Cautioner, to be bound and obliged: Likeas, &c. to Warrant, Relieve, and Skaithless keep the said C. his Heirs and Executors, from all Trouble and Action that shall happen to be moved and intended against him upon the foresaid Arrestment or Assignment, and from all Coast, Skaith, Damage, Expenses, and Interest that he or his forefairs shall happen to sustain and incur there-through, or in defending against the same, and to refund to him any Expenses he or his forefairs shall sustain thereanent. Follows a Bond of Relief to the Cautioner. Registration.

The Clause of Relief subjoin'd to Bonds, is to be found in Page 27.

1. When in the principal Bond there is a Clause of Relief, the Bond of Relief which is to be granted a part, ought to be conceiv'd in Corroboration of that Clause, and is thus express'd, Therefore

in Corroboration of the foresaid Clause of Relief, contained in the foresaid Bond, and butt Prejudice or Derogation thereto, or to any Diligence competent to follow thereupon, sed accumulando, &c. wit ye me to be bound and obliged: Likeas, &c.

2. In Bonds of Relief wherein for further Security there is an Assignment of any thing, or an Obligment to dispoſe Lands for the Cautioners Relief, this Clause and Provision is most commonly adjoined, *Viz.* That so soon as the said B. (Cautioner) shall be fully Relieved and Freed of the foresaid Cautionrie, and that I shall deliver to him a valid Discharge thereof, then and immediately thereafter, not only this Assignment, but also the foresaid Instrument of Relief, which I am hereby obliged to grant, shall be null and void, as if it had not been made.

3. One having bought Lands, which were burden'd with Wadsets, gives to the Dispoſer a Bond to Relieve him of these Wadsets, and to pay the Sums due thereby. The Order and Form of which Bond is, to narrate the Disposition and then to subsume, That albeit the said B. has granted to me a full Discharge of the Sum of 80000 lib. as the Value, Worth and Price of the saids Lands; yet nevertheless, true it is, and of Verity, that the said price is to be imployed and applied in manner following, *viz.* the Sum of — thereof, is to be applyed for purging of the Wadsets and other Heretable Securities after-mentioned, affecting the saids Lands, *viz.* 4600 Merks thereof to the Heirs and Successors of — for purging of a Wadset he had upon the Lands of — and so furth with the rest of the Wadsets; Therefore, he bound him, &c. to Warrant and Relieve the said B. of all Skaith that he or his foresaids shall happen to sustain there-through, and for that effect to make payments to the said Persons of the respective Sums above-specified, each of them for their own parts, as is above-divided, and to retire from them sufficient Discharges and Exonerations to the said B. of the same Sums, as to all personal Execution that may be used against him or his foresaids thereupon, and as to all real Execution that may be used against any Estate Heretable or Moveable belonging, or that shall happen to belong to him or his foresaids, butt Prejudice nevertheless to me to take Assignations and Dispositions to the saids Sums, and to retain the Wadset due to myself, in so far as I may be thereby secured in the Lands and others foresaids particularly dispoſed by the said B. to me, and to the Lands dispoſed in Warrantice, in case of Eviction of the principal Lands: And it is hereby declared

clared, that it shall be Lawfull and lawful to me to make use of
the Profits raised by the interest of the said ~~sum~~ against
the Wadsetters, for satisfying them Tents and Rents as to the
Superplus of the Rents and Duties of the respective Lands Wad-
set to them, more than pays the Interest of their Principal Sums,
as I bind and oblige me to relieve the said B. and his forefathers of
the Annualrents of all the said Principal Sums, in so far as he
may be liable to the Wadsetters and others for the same, from
and after the Term of Whitsunday in the instant year, and in
all time coming. To this was subjoined an Obligation to
pay the remainder of the price with the Annualrent in forma
Communi.

The Clause above-mentioned declaring it lawful to redeem
the Wadsets, is not a sufficient Title for him to pursue for
Redemption, but to Corroborate this, he got an Assignment
to the Reversion of these Wadsets, with a Power to that
Effect.

4. An Heretable Bond of Relief is of a different Tenor from
an Heretable Bond of borrowed Money, as will appear from
comparing the two. The Heretable Bond of Relief is of the
Tenor following, and I make it in a case, where in the Original
Bond, the Principal was in effect only Cautioner, albeit
he gave a general Obligation of Relief, so that now the case
is reversed, all which is in this Form, *Be it known, &c.*
me A. Forasmuch as (here narrate the Bond) And seeing the
said B. did only become Principal in the said Bond at my desire,
and that the foresaid whole Sum of Ten Thousand Marks was
received by me, and applyed to my own proper use, notwithstanding
of the Clause of Relief contained in the said Bond, where,
through all Equity and Reason, the said B. ought to be secured
from all Damage and Prejudice that he may sustain thereby;
Therefore wit ye me not only to have exonerated and discharged:
Likeas, I by these presents Exoner and simpliciter Discharge the
said B. and his Heirs and Executors of the Clause of Relief
granted by him to me contained in the end of the foresaid Bond,
made by him as Principal, and me as Cautioner to the said C.
and of all Action and Execution competent, or that may be com-
petent to me against him by vertue thereof; But also to be bound
and obliged: Likeas, I by these presents bind and oblige me,
my Heirs, &c. to Warrant, &c. the said B. his Heirs and Exe-
cutors of the Bond above-mentioned, and Sums of Money Principi-
pal,

pal, Annualrent, and Expenses above specified therein contain-
ed, and of all Cots, Shacks, Damages, Expenses, and Interest that
he or his foresaids shall happen to sustain or incur there-
in in any sort. And further, to be bound and obliged, Likewise,
I for the said B. his further Relief and better Security there-
ment, by these presents bind and oblige me, my Heirs and Suc-
cessors, upon my own proper Charges and Expenses, and by my
own Attyen to duly and lawfully Inset and Seal, with all con-
venient Diligence, the said B. his Heirs and Attorneys foresaids,
heresubbe, under the Provisions and Conditions after mentioned,
in all and hail the Lands and Barony of ——— with the Towns,
Forstalls, Adamour Place, Houses, Buggings, Yards, Orchards,
Parks, Ponds, and Parcements thereof, as the same are deter-
ed and demarcated in my Insetments thereof, lying within the
Sherriffdom of ——— and that in Special Clause of Warrantance,
Security and Relief to the said B. and his foresaids, of one Sum
above mentioned, contained in the Bond above written, granted
by him and me, to the said ——— So that if it shall happen him or his
foresaids to be distressed for the same, or any part thereof, then
and immediately thereafter they shall have full and free Liberty,
Regress, and Access to the Lands, Barony and others above-
mentioned, with the Parcements, Tithing, and raising thereof, in pursuing or
enforcing of the Tenures, and upliffing the Mails and Duties of the
same, at least of so much thereof, as shall be correspondent to the
said distress, when it shall happen, and to the Expenss and Damage that
shall happen to be sustained thereby to be from that time forth peaceably
possest by him and his foresaids, ay and while they be sufficiently freed
and relieved of the said Debt, and that by two several Insetments in
due and competent form, the one thereof to be holden of me and my Heirs
and Successors, either Blench or Feu for payment of such Blench and Feu
Duties as best shall subsist with the Laws of this Realm, and the other of
the foresaids Insetments, to be holden from me and my foresaids of my
immediat lawful Superiors of the Lands, Barony, and others above-
written, sikklike and als freely in all respects, as I presently hold the same
my self, and that either by Resignation or Confirmation, as best shall please
the said B. and his foresaids. And sikklike, I bind and oblige me and
my foresaids, not only to procure and obtain the Superior's Consent to be re-
ceiving the said Resignation, or granting the said Confirmation, but also
to pass the Insetment thereupon, and to expenss all other lawfull Charges
for pursuing thereof. And for enupding the said Insetment by Re-
signation, I by these presents make and constitute, &c. in the bands, &c.

Witness my hand and seal, this 10th day of June, 1540.
In the 10th year of the said King's Majesty.

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In favours, &c. in due and competent Form, Providing always, like, it is hereby expressly provided, and declared, and appointed to be contained in the Infeiments to follow hereupon, that the said B. his entry to the Lands and Barony above-mentioned, and the uplifing of the Mills and Duties thereof, by vertue of this present Bond, and the Infeiments to follow hereupon, shall stand suspended, until such time as he or they be distrest for the Debt above-mentioned, due to the said C. or any part thereof, to be bruikend and joyed by him and his foresaids from thence forth effeirand and answerable to the distrests, and ay and while he be fully freed and relieved of the said Bond and Debt above-mentioned, due to the said C. and to be payed of all Damngages, Expenses, and Interest that he or they shall happen to sustain or incur there-through, and that either by me or my Heirs, or by his In-ermission with the Rents, Duties, and Casualties of the Lands, Barony, & others above-mentioned, and that then and immediatly thereafter, the said B. and his foresaids shall be holden to renunce and over-give to, and in favours of me and my foresaids, the whole Lands and others above-rehearsd omni habili modo quo de jure, with Warrandice from their own proper Facts and Deeds attenarly, and thereupon Acts, &c. (Clause of Warrandice as in a common Heretable Bond.) And moreover, I I by thir presents, desire and require you, &c. (Precept of Seafin in the Lands in common form.) conform to these presents and Infeiments to follow hereupon, or either of them, under the Provisions and Conditions always above-mentioned, which are holden as here repeated and exprest, and that this on noways ye leave undone. The which to do, &c.

Of Back-bonds.

A Back-bond is an Obligation given by one who acquires a Right or Obligation to the Person who grants the said Right, & which Backbond is relative to the Subject contained in the Original Bond or Right, so called, as it were a Bond given back again, for example when one gets an Assignation in Trust, it is fit the same be acknowledged, and the Trustie or Assigney be bound to make faithful Compt. The which Bond is thus, Be it known, &c. me A. Forasmuch as, albeit B. by his Assignation of the date ——— hath Assigned to me, &c. (here narrate

narrate the Assignment to the Bond, and in the Body of the Assignment make mention of the Bond in the next Form; then say,) yet nevertheless, by these presents declare, that my Name is insert in the foresaid Assignment in Trust & for the behoof of the said B. himself, to the effect that Diligence may be done in my Name for obtaining payment of the Sums thereby assigned. And therefore, I bind and oblige me, my Heirs, Successors, and Executors to acquit my self of the said Debts, and Grounds thereof, in favour of the said B. his Heirs and Assignors, including his Executors. Likewise, I by these presents Release, Release, and Retrocess him and his foresaids, to his own full Right and Place of the Premises, and I Assign, Transfer and Convey to him and them, all Decrets and other Diligence that shall be done thereupon in my Name, and I shall renew and renew this present Retrocession and Translation whenever I shall be desired, providing I be no further bound therein, but with Warrantice from my own proper Fact and Deeds alienably, and that the Writes to be granted thereon be formed and expedite upon the proper Charges and Expenses of the said B. and his Foresaids, and if I shall recover payment of any part of the Sums above-mentioned, assigned by the said B. to me, in that case, I bind and oblige me and my foresaids to make Complete Reckoning and payment to him and his foresaids thereof, deducting only such Expenses as I shall depurse in the said Matter.

Another Form of a Back-bond by one in whose Favour an Assignment is granted in Trust for doing Diligence: Be it known, &c. me A. Forasmuch as (here narrate the Bond of borrowed Money, and the Assignment thereto) And seeing I am only intrusted by the said B. with the Assignment above mentioned, to the effect I may obtain an Adjudication at my instance against D. his Heirs, &c. of the Lands and Estate which pertained to ——— his Father, as well for the Sums of Money above-written, assigned to me as for other Sums resting by the said — to me, and his Creditors, from whom I have Right; Therefore, wit ye me to be bound and obliged: Likewise, &c. me, my Heirs, Successors and Executors, to use all legal Diligence for obtaining a Decret of Adjudication of the said — his Lands and Estate, for the Sums, Annualrents, and the other Debts resting by him, whereunto I have Right, and upon the foresaid Adjudication to use all Diligence for pro-

ceeding against D. his Heirs, &c. to the full satisfaction of the said Sums, Annualrents, and Debts, and to pay the same to the said B. his Heirs, &c. as they shall require.

cutting me to be Infeft and Seased in the said — his Land and Estate: Likewise, I now, as if I were Infeft and Seased therein and then as now bind and oblige me and my foresaids, to make just Compt, Reckoning, and payment to the said B. his Heirs, or Assignes, secluding his Executors of a proportional part effecting to his Debt, of the Mails, Profits, and Duties of the Lands, Heretage, and others to be Apprifed at my instance, as said is, which shall be intromitted with by me, or any others by my Warrant by vertue of the foresaid Adjudication, And sicklike, to denude me of the foresaid Adjudication, and whole Grounds and Warrands thereof, Infeftments to follow thereupon, and Sums of Money to be contained therein, with all that may follow upon the same to and in favours of the said B. and his foresaids, lawfully and effectually *omni habili modo quo de jure*, in so far as the same extends, or may be extended to the Sums of Money above rehearst, assigned by him to me, as said is, and to a proportional part of the Expenses that shall be depursed in the said matter; and Annualrent thereof from the time of the Depursement of the same during the not payment thereof, with power to the said B. and his foresaids to Ask, Receive, Intromet with, and uplift his proportional part of the Rents, Profits and Duties of the Lands and others to be Adjudged, as said is, and generally to do all other things thereanent sicklike, and als free in all respects as I may then do myself: It is always hereby provided and declared, that the Writes to be made anent the Premisses, shall be formed, past, and expedie upon the proper Charges and Expenses of the said B. and his foresaids; and that I nor my foresaids be not further obliged in Warrantice thereof, but from our own proper Facts and Deeds allenarly: As also, I bind and oblige me and my foresaids, to exhibit and produce before any Judge competent within this Kingdom, the foresaid Decreet of Adjudication, with the whole Grounds and Warrands thereof, and the Infeftments and Seafins to follow thereupon in my Name, to the effect so many thereof as shall be needful, may be transumed, and the authentick Transumps or doubles of the same delivered to the said B. or his foresaids, upon his own proper Charges and Expenses, to be keepest and used by them at their pleasure, and to make the principal Writes so to be transumed forthcoming to the said B. or his foresaids, when ever he or they shall have to do therewith, in all Actions and Causes wherein the said Transumps will not be sufficient: It is likeways hereby provided,

provided, that if the said B. shall failzie in contributing or paying to me or my foresaids of the proportional part of the Expenses to be debursed in prosecution of the Premises when ever I shall demand the same; then and in that case, I shall not be holden to fulfil this present Backbond to the said B. and his foresaids, until he or they make payment to me or my foresaids of the proportional part of the said Charges and Expenses, conform to an Account thereof. Registration.

Next, when a Factor is Constitute, he is in some sort a Trustie; and tho' a Factory of its own Nature import in Law an Obligation to make faithful Compt, Reckoning and Payment; yet seing the same cannot be compassed but by an Action which requires extrinick Probation, and upon that account an unjust Factor may prejudice, by a shifting Defence, his Constituent; To avoid this inconvenience, a Backbond relative to the Factory is delivered, which may be formed in this or the like Stile, *Be it known, &c.* (here narrate the Factory) And it being Just and Reasonable that the said B. be sufficiently secured, that I shall make a full Compt to him of my Intromissions with his Money which I am impowered by the said Factory to uplift, and that I shall do Diligence for recovering thereof, in manner after-mentioned; Therefore, wit ye me to be bound and obliged: Likeas, &c. that I shall make just Compt, Reckoning, and Payment to the said B. his Heirs, Executors, or Assignes, of the whole Sums of Money, Principal, Annualrents and Penalty contained in a particular Inventar thereof subscribed by him and me, at least to use all legal Diligence for recovering payment thereof, and that under the Penalty of ——— Scots Money, to be payed by me to him in case of failzie, by and attour performance of the premises, deducing always and allowing to me the Sum of ——— Scots of Fie for my being Factor, and my necessary Expenses I shall be at in receiving and uplifting the foresaid Sums, and in doing Diligence therefore.

Bonds of this sort are in use to have a Cautioner, which is mentioned thus, ——— Therefore wit ye me as Principal, and C. as Cautioner and Sovery for and with me to be bound, &c.

What is said of Factors concerns likewise Chamberlains, whose Backbond to their Masters is thus, *Be it known, &c.* me A. Chamberlain to B. Forasmuch as the said B. by a Letter of Factory and Chamberlainery of the date of these presents, has

made and Comptents are his Factor and Chamberlain for uplifting and intramitting with his Rents of his Lauds and Barones of — for the Cropt and ear of God 1705, as in the said Letter of Factory and Chamberlainry at more length is expressed; And it being reasonable thus to be secured against my being comptable for the Years Rent above-written, Therefore in Corroboration of the Provision specified in the end of the said Factory, and butt Prejudice and Derogation thereto in any sort, sed accumulando jura jurius, wit ye me to be bound and obliged; Likewise, &c. to make just Compt, Reckoning, and payments to the said B. his Heir or Assignies of my whole Intramissions with the Rents, Services, and Duties of his Estates, and that for the foresaid Cropt 1705, and thereafter if he shall continue me his Chamberlain any longer, and that yearly, termly, or oftner as I shall be required; As also to use Diligence for recovering the said Rents, Farmes and Duties, deducting always and allowing to me the Sum of 400 Marks Scots of Fee, for my being Factor, and my necessary Expenses I shall be at in going and receiving the Victual and Money Rent, and in selling and delivering the same out again, and in Satisfaction of my Trouble and Expenses in doing thereof, allowing also to me that House in — presently possessed by my self and Family, with a Cows and a Horse Grass to be pastured, with the said B. his own Kyn and Horses in Summer, and to have Fodder for them in Winter. Registration.

The Bond may likeways be thus, “ To Compt for the whole Mails, Farms, Kaynes, Customs, Casualties, “ Profits and Duties of the foresaid Lauds and Barony “ contained in a particular Rental thereof, subscribed by “ the Master and Factor, and to make this Compt yearly, “ ly, termly, or oftner, as the Factor shall be required, “ and under a certain liquidat Penalty, by and attour “ performance, deducting always the Feu duties, Minister “ and School-Masters Stipends, with such publick Burdens “ as are in use to be payed by the Heretor, and the Factors “ necessary Expenses in uplifting the same. — and to be bound in

There is no Contract or Conveyance that concerns any Subject or Right wherein a Backbond may not be interponed, which, from what is here set down, may easily be formed, according to the Paction and Purposes of Parties.

Of Bonds of Tailzie.

A Bond of Tailzie is one of these which fall under the Class of Bonds for performing of Deeds, the Grantor in effect is both Debitor, or Obligant, and Creditor. We are not here to treat of their Efficacy and obligatory Force, nor of all the Clauses and Provisions proper to be insert in a Tailzie, which alone would make a large Treatise. At this time you shall have the Form of the Bond, and place pointed out where the Provisions of Tailzie are insert, *As it known, &c.*

me A. Heretable Proprietor of the Lands, Baronies, and others after-mentioned, for diverse good Causes and Considerations moving me, and especially for the continuance of my Estate with my own Children and Posterity, and in the Name of A. To be bound and obliged: Likewise, &c. my Heirs, as well Male &c. conjunctly and severally, Renouncing, &c. to make due and lawful Relinquation of my Lands and other after-mentioned, presently pertaining and belonging to me, or which hereafter shall pertain and be acquired by me at any time of my life in favour of B. my Son, and Heirs Male lawfully Procreate of his own Body, which failz ing, in Favour of my other Heirs of Tailzie and Provision after-mentioned, under the Reservations and Provisions, Qualifications and Conditions at way after-specified; and for that effect me ye me to have made, constitute and ordained, &c. to resign all and both (here the Lands were particularly named and designed) and all and whatsoever Lands, Baronies, Baronages, Vicarages, Mills, Woods, Fishings, Annualrents, Tithes, Fines, and other Heretage whatsoever presently pertaining and belonging to me, for myself as Heir, or apparent Heir to any of my Predecessors, or which I shall happen to acquire at any time of my life, dispensing with the generality, and authorizing the same to be as valid and sufficient, as if the Lands and others generally above-mentioned were particularly designed and exprest, together with all Right, &c. in the hands, &c. in Favour, &c. (here the Heirs of Tailzie are expressly and the Provisions and Conditions of the Tailzie, which are according to the Will and Pleasure of the Party) and thereupon Acts, &c. And further, me ye me to have Assigned, Transferred, and Disposed to the said B. my Son, and his forsaids, which failz ing, as said is, under the Reservations above-exprest, all and whatsoever Bonds,

Obli.

Obligations, Dispositions, Charters, Precepts, and Instruments of Seisin, Procuratories and Instruments of Resignation, Dispositions & Adjudications, Apprysings, Tacks, Affidavits, Decrets of plait Prorogations, Reversions, Instruments and orders of Redemption, Declarators obtained or depending thereupon, Letters and Executions of Inhibitions and Registrations thereof, and other Writs, Rights, Evidents, and Securities whatsoever, made and granted to me, or that shall be conceived in my favours at the time of my decease, of and concerning the Lands, Baronies, Mills, Woods, Fishings, and others particularly and generally above-mentioned, or Teinds, Parsonage, or Vicarage thereof, or the Annuity of the saids Teinds, and all Sums of Money, Principal, Annualrents, and Penalties contained in the saids Bonds, Obligations, Woodsets, Adjudications, Apprysings, and others foresaid, or due by vertue thereof, dispensing with the Generality, And all Action, Instance, and Execution competent or that may be competent to me by vertue thereof, Surrogating and Substituting the said B. my Son, and his fore-said, which failing, as said is, under the Reservations, &c. above-reberst in my full Right and place of the Premises; And I declare that this shall be a valid Evident in Favours of my said Son and his fore-said, which failing, as said is, if it be not altered by me in my own time, albeit it be lying in my own Custody the time of my decease undelivered to him, or any in his Name, notwithstanding of any Acts, Laws, Practique, made or to be made in the contrair, wherewith I for me and my Heirs by these presents dispence, And I bind and oblige me and my fore-said, to reiterate and renew these presents, and to expedite Insestments thereupon, and to grant such particular Rights and Conveyances as shall be requisite for a legal establishment of a Right, conform to the Substitution and Provisions herein contained.

Bonds which oblige both for payment of Money and performance of Deeds, may be modelled out of a Composition of the Bonds of both sorts, here treated of; However, a Bond by a Vassal to his Superior may serve for an Example.

Bond by a Vassal to his Superior for payment of the Feudal duties, and for performing the Services contained in the Reddendo of his Charter.

BE it known, &c. me A. for myself, and taking burden upon me for B. my Spouse ——— to whom and in whose Favours the Charter after-mentioned is granted, Forasmuch as a Noble and Potent Lord of C. hath by a Charter subscribed with his hand, of the date ——— granted

ed and disposed to the said B. her Heirs and Assigns whatsoever, all and full (here mention the Lands verbatim as in the Charter) to be holden of the said Noble Lord during his Lifetime, and after his decease of --- his Son and his Heirs and Successors therein specified, for payment yearly of the Feu-duties after-mentioned, viz. (here mention the Feu-duties and other Payments and Services to which the Vassal is obliged particularly and verbatim, as they are in the Reddendo of this new Charter ; which if it be general, let all the Services and others to which the Vassal is liable be taken out of of the old Charter, and insert expressly and distinctly herein) And it being just and reasonable that the said C. and his said Son be secured to their own Satisfaction anent the payment of the foresaid Feu-duty and fulfilling of the Reddendo of the foresaid Charter ; Therefore, in Corroboration thereof, and butt Prejudice or Derogation thereto, or to any Diligence competent to follow thereupon, sed accumulando jura juribus, viz. ye me the said A. to be bound and obliged : Likeas, I by these presents bind and oblige me, my Heirs and Successors whatsoever, conjunctly and severally to make due and thankful payment to the said C. during all the days of his Life, and to the said --- his Son, and his Heirs after his decease of the Feu-duties above-mentioned, termly as they fall due, and of the said Services as they shall be required, beginning the first Terms payment at Whitsunday next to come, in the year of God 1705, and termly thereafter at the Terms above-specified by equal Portions in all time coming, with the Sum of Ten Merks Money foresaid of liquidat Expenses for ilk Terms fallte toties quoties : And also, that the said B. her Heirs and Successors succeeding in the Right of the foresaid Lands, shall renew this Obligement from time to time at the Entry and Succession of every Heir and Successor, under the Penalty above-specified. Registration.

Having Treated of several sorts of Compound Bonds, which are of their own Nature Original or principal ; It remains that, for compleating this part which relates to bonds, we Treat of Bonds of Corroboration.

Of Bonds of Corroboration.

A Bond of Corroboration, besides the *Obligatory Clause* which it has in common with a simple Bond, has a *Narrative*, wherein the Original Obligation and what has followed on it is Narrated fully. 2. *The Subsumtion*, which is, that the Creditor is content to supercede payment till a further Term, upon his getting a Corroborative Security in manner

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It may be called the Cause of the Bond, and the Form of it is various, as shall be shewn. 9. The Difference from these Premises, namely the Obligation itself. Therefore wit ye me to be bound and oblig'd, &c. The stile of this is uniform, as will appear from the Examples of the various Cases here set down. The specifick difference of the stile of a Bond of Corroboration from another Bond or any other Write, consists in the Subjuration and Inference. For the Narrative may be premis'd to Writes of several sorts and of different purposes, as to an Assignation, or to a Discharge.

Bonds of Corroboration are divided into as many species as Original Bonds are and besides, may be considered in these different Forms. As I. with respect to the Creditor, it is granted to the Original Creditor himself, or to his Heir or Executor, or to his Assignee. II. With respect to the Debtor, it is granted by the Debtor himself, his Heir or Executor, or Successor-incrative, who is bound to pay this Debt, and all these either by them self alone, or with a Cautioner, one or many. And III. With respect to the Form, it is a simple Corroboration without any Addition or Augmentation of the former Bond, or with Augmentation arising on sundry Accounts, as the Addition of a Cautioner, or a real Security. 1. The Accumulation of the bygone Annualrents into one Sum, and making them with the former Principal bear Annualrent. 2. The advancing and lending of a new Sum. And the variety in Bonds of Corroboration may proceed from any One, or Two, or all these Causes jointly.

The Form and Stile of a Bond of Corroboration by the Original Debtor to the Creditor himself. In the most simple Form, is thus, *Be it known to all Men by these presents Letters, me A. Forasmuch as, I by my bond, &c. (here narrate the Bond) And seeing the said B. has condescended at my request to delay the payment of the said 12000 lib. till Whitsunday next, upon my granting the Obligments under-written: Therefore, in Corroboration of the Bond above-mentioned, and without Prejudice or Derogation hereto, or to any Diligence that has followed or competent to follow thereupon, Ied accumulando jura juribus, wit ye me to be bound and oblig'd: Likeas, I by these presents bind and oblige me, my Heirs, Successors, Executors, and Assignments with my*

my Goods and Gear whatsoever, conjunctly and severally, to make due and thankful payment to the said B. his Heirs or Assignees, according to his Executors, of the foresaid principal Sum of 12000 lib. with the whole bygone Annualrents thereof then resting at the Term of Payment aftermentioned, and that betwixt the Date hereof and the Term of Martinmas next to come, in the Year 1708 but longer delay, with the Sum of 1200 Merks, Money foresaid, of liquidate Expences in case of Failzie, together also with the ordinary Annualrent of the said principal Sum, conform to the Act of Parliament, &c. as in a simple Bond.

If Diligence has been done upon the Original Bond, it ought to be Narrated, and the Corroborative Clause ought to be in this or the like Form, *Therefore in Corroboration of the foresaid Registered Bond and Letters of Horning raised thereupon, and Gift of Escheat above-mentioned, and butt Prejudice or Derogation thereto, &c. If there be Annualrents due, which at granting the Corroboration are not payed, the Subsumtion and Obligement is thus, And seeing the said B. is content at my earnest desire, and upon my granting the Corroboration under-written, to superceed the payment of the said principal Sum and Annualrents thereof resting unpaid, till the time of payment after-mentioned, Therefore ——— to pay ——— the foresaid principal Sum of ——— and the whole bygone Annualrents thereof resting unpaid since the Term of ——— and that betwixt the Date ——— with Annualrent for the said principal Sum since the Term of ——— and in time coming, &c.*

But if the bygone Annualrents are to be accumulated and added to the Principal ; the Cause of granting the Bond, is in this or the like Stile, *And now seeing that the foresaid principal Sum is yet resting, with the Annualrent thereof above specified of the foresaid Bond, which principal Sum, with the Annualrent thereof, to the Term of ——— last bypast, being all compted together, extends in whole to the Sum of ——— Money, above-written, and that Equity and Reason requiring that the said B. should be further secured for the same Sums, Therefore, &c. And the Obligement bears, To pay the whole accumulate Sum, with the Annualrents thereof.*

In all Bonds of Corroboration, it is usual and necessary, to the Obligement to pay Annualrent after the Term of payment, to subjoin this Clause, *Butt prejudice of suiting Execution*

hereupon, or upon the said other Bond, or both, without Requisition. And if there be any other Write or Security besides the Original Bond prior to this Corroboration, let it be Butt prejudice to it likewise. If Diligence has been used on any of the antecedent Securities, the Clause is thus, Butt prejudice, &c. or to prosecute the Diligence already done, or to use all or any of the said ways of Execution till he obtain Payment, and that without Requisition.

If the Bond of Corroboration be granted to the Heir or Executor of the Original Creditor after the first Bond is narrated, you make mention of the Service, or of the confirm'd Testament; and if a Decreet has followed on these, you narrate the Decreet also, and in the Subsumtion and Obligment mention the Name of the Heir or Executor simply, as if he had been the original Creditor, and will not differ in the Stile from that of the Bond above set down.

If the Corroboration be to an Assigney, then the Assignment is narrated, and the cause of granting the Bond of Corroboration and Obligment uses to be thus, *And seeing the said B. did accept of the foresaid Assignment to these two Bonds at our desire, and upon our promise of granting to him the Corroboration after-specified. Therefore, &c. or in this manner, And seeing the said B. did at our earnest desire make payment of the whole principal Sums contained in the three Bonds abovementioned, granted to the said D. extending to 5000 lib. of principal Sums, and did take Assignations thereto; As also, he condescended at our request to superceed and continue the same till the Term of payment after-mentioned, where-through in all Equity and Reason he ought to be secured thereanent; Therefore, and in Corroboration of the three Bonds above-specified, granted to the said D. with the Assignment made to the said B. thereof, and butt Prejudice or Derogation thereto, &c.*

When Bonds granted by defunct Persons, are Corroborated by Persons made liable in Law to pay the Debt, as by the Heir or Executor, their Relation to the principal Debtor should be insinuated in the Corroboration, and this is commonly done by an additional Designation, from which one will easily conceive the Reason why that Person grants the Corroboration, as when a Bond is Corroborated by an Executor, the additional Designation is thus, — *Me A. Executor Nominated and Confirmed to the deceast B.* After which, the Bond

Bond is narrated, and the Stile of the Corroboration goes on in common form. The same may be said of an Heir Served and Retoured.

It sometime happens, that the Bond of Corroboration is granted by one who had no Relation to the original Debtor, wherefore in the Subsumtion, the Cause or Reason of granting is expressed in this or the like manner, *And seeing the said D. did advance the forsaide principal Sum to the said B. upon the forsaide Security, and upon my promise to give and grant my Bond of Corroboration, after-specified ; Therefore, &c.*

When more Money is lent by the Creditor in the original Bond, to the Debtor, or his Heirs, and that both that and the former Debt are to be accumulated in one Sum, and put in one Bond, this uses to be done by a Bond of Corroboration, wherein the former Obligation is narrated, and the Subsumtion is the same, as is before-mentioned, so as either you accumulate the bygone Annualrents or not, and then you subjoin, *And also, seeing the said B. has presently advanced and payed to me the Sum of ——— wherewith I hold me well contented and satisfied, and that Equity and Reason requiring that he should be Secured for the same, and also for the Sums above-mentioned, extending in the whole to the Sum of ——— Therefore, &c. To pay the forsaide whole extended principal Sum of ———*

Bonds of Corroboration, may be by themselves, or joyn'd with Writts of another kind ; As for Example, Bonds of Corroboration may be in Contracts or Agreements, and Assignations, &c. I shall here set down a Bond of Corroboration and a Ratification, ingross'd in one Write, from which you may take an Idea of all others, and know how to make the like Composition.

A Bond of Corroboration and Ratification, by a Son, of a Contract and Agreement made by the Father.

BE it known, &c. Me A. Forasmuch as (here narrate the Contract) *And I being very well satisfied with the forsaide Contract and Agreement, and most willing to Ratify and Corroborate the same ; Therefore witt ye me, not only to have Ratified and Ap-*

proven :

proven: Likew I by these presents for all Right that I now have, or shall afterwards fall or accress to me, Ratify and Approve the Contract and Agreement above-mentioned, in the hail Heads, Articles and Clauses thereof, conceived or that may be interpret in favours of the said B. and her forefairs, dispensing with the generality of this Ratification, and admitting the same to be as valid and sufficient, as if the same had been verbatim insert and ingrossed hereintil. And farther, in Corroboration of the saimen Contract, and butt prejudice or derogation thereunto, or to any Diligence competent to follow thereupon, sed accumulando jura jurius; Witt ye me to be bound and obliged, as I by these presents bind and oblige me, my Heirs, as well Male &c. conjunctly and severally with my said Father, and his said Cautioners, (renouncing the benefit of the order of disoussing the saids Heirs) to make due and thankful payment to the said B. her Heirs, Executors or Assignes, of the foresaid yearly Annuity of 1450 Merks at the said two Terms in the Year, Whitesunday and Martinmas, by equal portions, beginning the first Terms payment thereof at ——— next to come, for what shall be then due, and so furth Yearly and Termly thereafter at the Terms above-mentioned, by equal portions during all the days of her lifetime, and that free of all publick Burdens or Deductions whatsoever, either already imposed upon Liferent Annuities, or that hereafter shall be imposed by any Law or Act; but longer delay, with the Sum of 100 lib. Money foresaid of liquidate Expences, for ilk Terms faily, toties quoties. It is always hereby provided and declared, That her accepting of this present Corroboration, shall no ways derogate from, nor be prejudicial unto the Clauses Irritants, and other Provisions contained in the said Contract, which are conceived in favours of the said B. Follows a Clause of Relief by the Father to the Son.

Of Bonds of Interdiction and of Obligements by Persons Interdicted.

A Bond of Interdiction, is a Writing wherein a Party acknowledging his Weakness and Levity, or readiness to hurt himself, does therefore Interdict and Bind himself, that he shall not Act without Consent of Persons therein-mentioned, who are called Interdictors, and are as Curators, tho they

they be not obliged for Intromission or Omission, but only to Consent with the Person Interdicted, and are liable for any fraud or fault in Consenting. It is a kind of Inhibition, and hath the same effect, provided the Party was truly Weak and Lavish. The form of such a Bond is thus.

BE it known, &c. Me W. A. Forasmuch as by the Facility of my Nature, and small experience to manage my worldly Affairs, and other too palpable Infirmities that follow me, I may be induced by persuasion of crafty and evil disposed Persons, to make and grant any Alienation, Discharge or Renunciation, of my Lands, Tenements, Annualrents, Heritages, Debts, Sums of Money, Goods and Gear whatsoever, pertaining or that shall happen to pertain to me, in all time coming, to whatsoever Persons, to my great Hurt, Enormity and Lesion, if I be not defended by the Counsel and Advice of some discreet and understanding Person, against all such Transactions. And I putting entire Trust and Confidence in B. and C. by whose Counsel and Advice, I intend to Direct all my Actions, Affairs and Business; Therefore witt ye me, of my own free Will and Motive, without being any ways compelled or induced thereto, but meerly for my own good Utility and Profit, to have Interdicted, and by the Tenor hereof Interdicts my self to the said B. and C. and binds and obliges me, that I shall not make nor grant any Disposition, Assignment, Alienation, Discharge or Renunciation, of my Lands, Heritages, Tenements, Annualrents, Debts, Sums of Money, Goods, Gear, and Othes whatsoever, pertaining or that shall happen to pertain to me in all time coming. And that I shall not affect nor burden my said Heritages or other Interest, either Heritable or Moveable, by any Deed to be done by me, nor shall I Contract any Debts, become Caution for any Person, nor grant Bond nor Obligation, for any Sums of Money, or performance of any other Deed whatsoever, upon which the foresaids Lands, Annualrents, and other Heritages, may be Adjudged or Evided in bail or in part, or any of my moveable Goods, Poinded, Destrenxied and Apprized, and for which I may be charged and denounced to the Horn, wherethrow my Escheat and Liferent may Fall, and my Person be Imprisoned, and that I shall not Bargain, Block nor Buy, from or with any Person or Persons whatsoever, nor do any other thing directly or indirectly, whereby my saids Lands, Heritages and Others foresaid, whether Heritable or Moveable pertaining to me, or that shall belong to me

an apparent Heir to &c. may be any way burdened or distressed as said is, without the special Advice, Consent and Assent of the said B. and C. first had and obtained thereto in write under their Hand, and whatever shall be done in the Premises without the foresaid Consent first had and obtained, shall be Void and Null, and of no Force, Strength nor Effect, in all time coming, with all that can follow thereupon: And to the effect that no Person may pretend ignorance of this my Interdiction, I am content that Letters be raised hereupon for publication hereof at the Mercat Cross of &c. and other places needful, and that the same with their presents, be Registered in the Books of Council and Session, or any other competent Register, therein to remain *ad futuram rei memoriam*, and Constitutes, &c.

A shorter Forme of Interdiction.

BE it kend, &c. me &c. Lawful Son to &c. For as much as, I considering the facility of my Nature; That not only I may be Induced and Intrigued to become Caution, for diverse Persons, for Payment of Sums of Money; or for Performing of other Deeds, but also to Borrow Sums, and do other Deeds, whereby my Person may be Troubled, and my Lands, Goods and Gear Adjudged frae me, my Heirs, Executors and Successors. And being Careful to prevent the samen; having sufficient Proof and Experience of the good will and favour born to me by &c. and &c. Therefore and for diverse other good Causes and Considerations moving me. Witt ye me to be Bound and Obligated, and Interdicted. And by their presents, Binds, Obliges and Interdicts my self to the said, &c. any one of them, being on Life, that I shall not become Cautioner for any Person, or Persons whatsoever, for Payment of Sums of Money; nor for Performing of no other Deeds nor Facts: Nor yet shall I Contract Debts, nor do no other Deeds whatsoever, nor Subscribe no Contracts, Bonds, Obligations, Dispositions, nor other Rights whatsoever; without the Advice, and special Consent of the fore-named Persons, or any one of them, being on Life for the time, first had and obtained thereto in Writ: Declaring and Consenting by their presents, that all Contracts, Bonds, Obligations, Dispositions and other Writs whatsoever, so be Subscribed without the Consent of the foresaid Persons, at the least of any of them being on Life, for the time, first had and obtained thereto in Writ, or Subscribed by them, shall be Null, and of no Avail, Force, Strength or Effect. with all that shall follow thereupon Requiring &c.

Ans.

Another kind of Interdiction, with sundry unusual Provisions.

BE it known, &c. me A. Forasmuch as, I do Consider, that by the weakness of my Sight, there may be Advantages taken of me, and I may be Induced and Intised not only to Subscribe and become Cautioner for diverse Persons, for Payment of Sums of Money; or for performing of other Deeds; But also to Grant Bonds, as it were for Borrowed Money, and do other Deeds whereby my Person may come to be Trubled, and my Lands, Goods and Gear Apprysed, or Adjudged from me, my Heirs and Successors. And I being Careful to prevent these Inconveniencies; and withal having sufficient Proof and Experience of the good will and Kindness born to me to by E. and D. Therefore, and for diverse other good Causes and Considerations moving me, Witt yeme to be Bound, Obliged and Interdicted, as I by thir Presents, (under the reservation, and upon the expresse Provisions and Conditions after-mentioned; Bind, Oblige and Interdict my self to the saids E. D. and G. or any two of them, the said E. being always one, and failxing of him by Death or Absence, the said D. being always one, and failxing of him, the major part, That I shall not become Cautioner for any Person or Persons whatsoever, for Payment of Sums of Money, nor for performing other Facts or Deeds, nor shall I Contract Debts, nor do no other Deed whatsoever: (Except as is hereafter expressed) nor Subscribe no Contracts, Bonds, Obligations, Dispositions nor any other Writs whatsoever, without the special Advice and Consent of the fore-named Persons, or their Quorum, first had and obtained thereto by Write, Declaring and Consenting by thir presents, That all Contracts, Bonds, Obligations, Dispositions and other Writs whatsoever, to be Subscribed by me, without Consent of them or their Quorum above-Written, first had and obtained thereto in Write, or Subscribed by them, shall be Null, and of no Avail, Force nor Effect with all that shall follow thereupon; Reserving always full Power to me, with Consent of S. my Spouse allenarly, and without Consent of any of the fore-named Person to Compt with my Chamberlain and Tenents, and to grant Discharge of the yearly Duties of my Land, Feo and Teind Duties, and also to Discharge my Debtors of the Annual-rents that are presently bygone, or that shall become due during the continuance of this Interdiction; which Discharges shall be sufficient,

ent, being only subscribed by me and my said Spouse; And farther, reserving Power to me with Consent of any two of the foresaid Persons to whom I have Interdicted my self, to sell Lands or Toinds, contract Debts Heretable or Moveable, and to grant Bonds and Woodfets for the same, or Infelements of Annualrents, or do any other Deed whatsoever, except the revocking, annulling, qualifying or altering of the Interdiction it self, and which Deeds to be done, and Securies to be granted thereon, shall be valid and sufficient in favours of the Persons to whom they are given; And in like manner reserving Power to my self with Consent of the said E. and surviving of him by decease, with Consent as aforesaid, to revoke this present Interdiction, and declare the samen Null, and that by a Writte to be subscribed by me and them, and to be Registrat in the Books of Council and Session, which shall be sufficient for that effect. And lastly, It is hereby provided and declared, that this present Interdiction shall continue for the space of three Years after the date hereof, and it shall be lawful to me thereafter, without Consent of the fore-named Persons, or any of them, to Act and Do by my Self, every thing in relation to my Affairs, else fully and freely without their Consent, as I might have done before the subscribing hereof, under which express Reservations and Provisions this present Interdiction is granted and no otherways Registration that Letters of Publication may be direct hereupon in form as follows.

Bonds and other Writts granted by a party Interdicted, with Consent of the Interdictors, are not different in Stile, from these made by a Minor with Consent of his Curators.

Of Obligatory Clauses insert in other Writts.

IN Writts of Exoneration or Conveyance, it is sometime necessary to insert an Obligement to reiterate and renew that Write, which is in this form; And I bind and oblige me and my foresaid, to reiterate and renew this present Discharge, keeping always the substance above written, whenever I shall be desired from time to time, ay and while they, and every of them, find themselves sufficiently secured thereon. — I have seen this added, And to amplify and enlarge the same, with all other Clauses and Expressions necessary. In this Clause, it should be declared upon whose Charges the Writts are to be form'd.

A Clause to cause Ratify and Reiterate, is this, *And I bind and oblige me and my foresaids, to cause my said Sisters, &c. and failing of them by decease, their nearest lawful Representatives after their perfect Age of 21 Years compleat, Ratify and Approve, and if need be, Reiterate and Renew these Presents to the said C. or her above specified, ay and while he or they find themselves sufficiently secured anent the Premises.*

In Writts granted by Husband and Wife, the Husband obliges himself to cause the Wife ratify the Deed judicially, which Obligement is thus.—*And in like manner, I the said A. bind and oblige me and my foresaids, to move and cause the said B. my Spouse, not only subscribe these Presents before famous Witnesses, but also compare before any Judge Ordinary, and there without my presence judicially Ratify the Premises, and declare upon her great Oath, that she is no ways compelled to the granting hereof, but that she does the same willingly and of her own accord, and that she nor no other to her behoof, shall ever quarrel or impugn the same, or come in the contrair hereof, directly nor indirectly, by any manner of way in time coming.*

An Obligement to cause a Party absent Ratify and Sign a Writ,—*Likeas, I the said A. bind and oblige me, &c. to cause the said B. betwixt the — day of — ratify this Discharge, and to subscribe the Ratification with his hand before famous Witnesses, and that under the pain and penalty of — Scots Money, to be pay'd by me to the said C. in case of faily, by and attour fulfilling of the Premises.*

Of the same form are Obligements by a Tutor, Curator or Factor, to cause the Pupil or Minor at Majority, and the Constituent at his return to the Kingdom, to ratify and renew the Bond or other Writt, granted by the Curator or Factor.

Of Discharges.

A Discharge is an Acquittance in writing of a Sum of Money, or other Duty, which ought to be pay'd or done, as, if one be bound to pay Money due by a written Obligation or otherways, the Creditor upon receipt thereof, or upon other Agreement signs a Writing, in Discharge thereof, testifying that he is pay'd or otherways satisfied, and there-

fore doth Acquite and Discharge him of the same, which Discharge wholly extinguishes the Obligation or ground of Debt.

This Word differs from *Acceptilation* in the Civil Law, or *Apocha*, because *Acceptilation* may be by, and without Writing, and is nothing but a feign'd Payment and Discharge, tho no Payment be made, and *Apocha* is a writing witnessing the Payment, which nevertheless Dischargeth not unless Money be truly delivered.

He to whom the Obligation is granted, or others having his Right or Warrant, can grant Discharge, as the Creditors Heir, Executor, Assigney, Factor, Tutor and Curator.

Not only the Debitor, or those who represent him, and are liable in payment of his Debts, or others to whom the management of the Debtors Affairs are committed, such are, the Debtors, Heir, Executor, Successor in his Estate, Disposed with the burden of Debts, Factors, Tutors and Curators, but also Strangers who have no manner of Relation to the Debitor, can procure a Discharge of a Debt, or Obligation, which will be equally stedable and valid.

There's no great variety in the Stile of Discharges occasioned through the diversity of Obligations, or the subject Matter contained in the Bond, because it is narrated, and the discharging or acquitting Words, are apply'd to the Bond and and Words therein, or to the Species of the Obligation, which may arise *ex facto*.

It was formerly said, that if the Bond has been Registered, and Diligence done thereon, the Discharge thereof is in a writing a part, and must have a Narrative.

Discharge by the principal Creditor to the Debitor himself, of a Bond, &c. which is only Registered.

BE it known &c. Me A. Forasmuchas (here narrate the Bond in common form) And now seeing that the said B. hath made payments to me of the foresaid principal Sum of _____ and baill bygone Annualrents of the same, wherewith I hold me well contented and satisfied, renouncing, &c. Therefore witt ye me, to have Exonered, quite Claimed, and simply Discharged; Likewise, &c. the said B. by Heirs and Executors of the Bond above-mentioned

ned, and of the haill Sums of Money, Principal, Annualrent and Expences above-specified contained therein, and of all Letters of Horning, Poinding, Arrestment, and other Letters and Diligences if any be raised thereupon, and of all that has followed or may follow upon the Premises for now and ever; which Discharge above-written, I bind and oblige me my Heirs and Executors, to warrant to be to the said B. and their foresaids, an sufficient Exoneration anent the Premises at all hands, and against all deadly; Likeas, I have instantly delivered to him the Extract of the foresaid Bond to be cancelled and destroyed at pleasure.

When the Discharge is granted by the Creditor's Heir, you need not narrate the Service, but to the Granters proper Designation, add the additional one of *Heir Served and Returned to the decest A. my Father*, and then proceed narrating the Bond granted to the Predecessor, and the Stile of the Discharge is the same as if the Obligation had been granted to the Discharger.

The same is to be observed in a Discharge granted by an Executor, whose additional Designation is *Executor Nominated and Confirmed to the decest B.*

If the granter be both Heir and Executor, it is—*Me A. Brother and Heir Served and Returned to the decest— and Executor Decern'd and Confirm'd to him.*

In both which cases, it is convenient after the Clause of Delivery of the ground of Debt, to place an Obligement to make the Retour, or confirmed Testament furthcoming to the Debitor, and there set down their dates.

But if Diligence has been raised by the Heir, or Decreet obtained at the Instance of the Executor, without which it is seldom safe to pay an Executor, these are narrated in common form.

In Discharges by an Assigney, to the ordinary Designation, you may add *Assigney after-specified*, and after narrating the Bond you may say, *which Bond and Sums therein contained are assigned to me the said A. by the said B. conform to an Assignation of the date, &c.* And now seeing &c. Therefore I as Assigney and having Right in manner foresaid by these presents Discharge &c.

Discharges of Debts due to Pupils are granted by the Tutor, the Stile of which is thus exprest, *Be it known &c. me A. Tutor*

dativē to B. conform to the Letters of Tutor dativē granted to me under H. M. quarter Seal, of the date——Therefore I as Tutor foresaid, Exoner &c. some have I as Tutor foresaid, and as taking burden upon me for my said Pupil, Exoner &c. And in the Warrandice, I for my self, and as taking upon me as said is, by these presents bind and oblige me, my Heirs and Successors, to warrant &c.

When the Debt is due to a Minor, the Discharge is granted by him with consent of his Curators, thus, *Me A. with the special Advice and Consent of——my Curators for their Interests.* In the Clause of payment, the Money is not said to be payed to the Minor, but to one of the Curators, or to their Factor, thus, *And now seeing the said B. hath made payment to C. one of my Curators, for my behoof, of the said Sum, &c.* Therefore witt ye me the said A. with the special Advice and Consent of my saids Curators for their Interest, to have Exonered &c. which Discharge, I with consent foresaid of my saids Curators, bind and oblige me &c. to warrant &c. Some mention that such a number of the Curators is a Quorum, and the name of the Curator *sine quo nō.*

In Discharges of Debts or Donations due to a Wife, the Husband who is her Curator must consent, which is thus expressed, *Be it known &c. me A. with the special Advice and Consent of B. my Husband for his Interest, and me the said B. for my self and my own Right, with consent of, and taking burden upon me for my said Spouse, and us both with one consent and assent, the Subsumption is, And seeing the said C. hath made payment to me the said A. and my said Husband, of the foresaid Sum of——wherewith we hold us well Contented and fully Satisfied, Therefore witt ye us both with one consent, and me the said B. taking burden upon me for my said Spouse, to have Exonered &c.* And in the Warrandice thus, which Discharge above-written, *we the said A. and B. both with one consent, and me the said B. taking burden upon me for my said Spouse, bind and oblige us conjunctly and severally, our Heirs, Successors and Executors, to warrant &c.* In case the subject Discharged be claimed by diverse Persons, among whom the Competition is not determined in Judgment, or if the Debt be Arrested, or other ways affected, the Consent of these Persons is requisite, the which Consent is not expressed either in the beginning, or in the subsumption, but only in the Clause of Discharge, thus, *Therefore witt ye me with*
Advice

Advice and Consent of D. E. &c. for all Right and Interest that they or any of them have, or can pretend to the said Legacy, or any part thereof, by Arrestment, Assignation or otherways, to have Exonerated &c. And the Warrantice is, And I the said D. for my self and as Assigney foresaid, and I the said E. bind and oblige us, each of us for our own parts, to warrant this Discharge from all Arrestments laid on at our instance, in the hands of the said ——— and from all other Facts and Deeds done and to be done by us, prejudicial hereunto assenarly.

When the Discharge is granted by many Persons, of a Subject common to all, the Discharge is thus, *Therefore witt ye us, each of us for our own parts, to have Exonerat, and the Warrantice is, ——— oblige us, each of us, for our own parts to warrant &c.*

A Discharge by a Factor is thus, *I A. Factor constitute by B. conform to a Factory dated ——— Registered in the Books of Council and Session upon ——— grant me to have received from C. the Sum ——— mentioned in the said Factory, and hereby Discharges him, his Heirs, Successors, and all others whom it effeirs, of the said Sum of ——— and obliges my said Constituent to warrant this present Discharge to the said C. and his foresaids at all hands, and against all deadly as Law will. Or thus, I A. Factor specially Constituted by B. conform to the Factory and Commission given by him to me, of the date ——— Registered in the Books of Council and Session, upon ——— grant me to have received from C. the Sum of ——— contained in a Bond &c. And farther, I a Factor foresaid grant me to have received (another Sum) Therefore I by these presents Exoner &c. the said C. and his said Cautioners, of the foresaid principal Sum of ——— &c.*

A Renunciation of Conditions, Exceptions or Reservations, in Charters or Dispositions, subjoin'd to a Discharge, is thus, *And Renounces any Interest that the said B. can pretend by virtue of that Bond hereby Discharged, to the Lands and Estate belonging to the said C. by virtue of the Exception or Reservation contained in the Disposition made by the said B. to the said C. of the Lands therein mentioned; and as Factor foresaid, bind and oblige the said B. his Heirs, Successors and Executors, to warrant this Discharge to be &c.*

If the Discharge be granted to the Debtors Heir or Executors, liable in payment of the Debt, after the narrative in the ——— sub-

subsumption, the Stile is, *And now seeing A. Heir Served and Restored (or Executor Decerned and Confirm'd) to the said deceast A. his Father hath made payments to me &c. Therefore to have Exonerated the said A. his Heirs and Executors, and all others the Heirs, Executors and Representatives, of the said deceast C.*

In Discharges given to Factors, the Subsumption is, *And seeing A. as Factor for, and in name and behalf of A. hath made payment &c. but the Discharge is given to the Constituent who was bound. The same may be said of Tutors and Curators.*

When a Stranger pays the Money, it is either by verbal order, or the Money is intrusted to the Payer, and then he has the relation of a Factor; but if none of these cases happen in the Discharge, the Receipt of the Money must bear the payers Name, but in the Discharge mention is only made of the Debitor, but in the first case, the Name of both is exprest; take this Example, *I A. grant me to have received from B. the Sum of _____ which with the Sum of _____ allowed to _____ makes in all the Sum of _____ as the Teind-duty payable to me by the Tenents of C. for the Crop and Year of God 1705. as also I grant me to have received from the said B. the Sum of _____ which was paid to him by D. in part of his bygone Rent; And therefore I by these presents Exoner and Discharge the said B. and the Tenents of C. of the foresaid Teind-duty for the Crop 1705. and him and the said D. of the foresaid Sum of _____ in part of the bygone Rent of _____ And I bind and oblige me, and my Successors, to warrant this Discharge to him, and them respective, at all hands, and against all deadly.*

Again, the principal Debtors to whom the Discharge is granted; are either such against whom no personal Diligence or Attachment has been used, as Denunciation and Imprisonment, or they underly these difficulties, in which last case, to the Stile of the Discharge other Clauses are added as you shall see by and by; or his Goods moveable or immoveable are affected for payment of the Debt, the first by Arrestment, the other by Infetment of Annualrent, Wadset, Apprising or Adjudication: of which sort of Discharges the Stile is given hereafter, which is various according to the diversity of the Subject, and circumstance of Persons.

If the Debitor be denounced to the Horn, and Registred, and Imprisoned for not payment of the Debt, when he satisfies

lies the same, the Discharge must have a warrant to suspend and relax from the Horn, and put at liberty without Caution or Consignation, and besides the ground of the Debt whether Bond or Decreet, the Diligence raised on it, must be narrated in the Narrative of the Discharge, in common form. And in the body of the Writt must be discharged Thus—
And of all Letters of Horning, Poinding, Inhibition Arrestment, Caption and others, raised thereupon with the executions thereof, and all that has followed or may follow upon the same. And I am content and consents, That so many, of the persons abovenamed, as are denounced to the horn for the cause foresaid, be freed and relaxed therefrae; as also the said D freed and put to Liberty, furth of the Tolbooth of ——— where he presently remaines, without either Caution or Consignation.

If there be no Registred Denunciation, or if the Debitor be not Imprisoned, then you leave out that part of the Stile of the Discharge which relates to these two Circumstances.

Discharges have a different Form and Stile arising from the quality of the Subject discharged, which is either Moveable or Heritable, among Moveables, which cannot be well enumerated, are reckoned Sums of Money due by Bond, Legacies, Bairns part of Gear, Intromission with Goods, Tutor and Curator Accomptes, Factories, Processes, and depending Actions, Arrestments and Decreets, Discharge of personal Execution, reserving real Action against the Lands of the Debitor, Bonds of Interdiction, and the like; among heretable Subjects we compt Infeifments of Annualrent, Adjudications, Apprisings, Wadsets, Reversions, &c.

Discharges of Bonds for borrowed Money, are already treated of; follows the Stile of a Discharge of a Legacy. Be it known &c. me A. Forasmuchas (here narrate the Testament) And now seeing the said B. [Executor Nominated] hath made payment to me of the foresaid Sum of ——— left in Legacy to me by the said C. in manner foresaid, wherewith I hold me well contented and satisfied; Therefore witt ye me to have Exonerated &c. the said B. his Heirs and Executors of the foresaid Sum of ——— of Legacy abovementioned, and of all Action and Execution competent, or that may be competent to me against him, and his foresaids hereafter, for now and ever, &c.

Discharge by a Son to a Father and elder Brother, of all
Bairns part of Gear, and Provision.

BE it known &c. me A. Forasmuch as C. my Brother-German by his Letters of Alienation and Disposition subscribed with his own hand, of the date &c. hath Dispensed to me and the Heirs Male &c. which failing &c. as in the original Disposition All and Haill &c. as in the said Letters of Disposition and Alienation, containing a Reservation of my Fathers Lifetime during all the days of his Lifetime, at more length is express, And seeing the foresaid Disposition is granted to me in full contentation and satisfaction of all Bairns part of Gear, Portion natural, Executory, Legacies, or any other Provision whatsoever that I can ask or claim, by the decease of the said A. my Father, or of unquibile ~~my Mother,~~ wherewith I hold me well contented and satisfied; Therefore wille ye me, to have Exoner'd &c. as I by this presents &c. the said A. and B. his eldest Son, their Heirs and Executors, of all Bairns part of Gear, portion Natural, Executory, Legacy, or other Provisions whatsoever, that I can ask, claim or crave, by the decease of the said A. my Father, when the same shall happen at the pleasure of God, or of unquibile ~~my Mother,~~ and of all Action and Execution competent, or that may be competent to me thereunto, for now and ever, which Discharge &c.

Discharge of Intromission with Goods.

BE it known &c. me A. Forasmuch as B. hath made Compt Reckoning and Payment to me, of all his Intromissions with the Customs, Excise and Bullion, and with all Seisures and Casualties of Goods and Merchandise, Imported to and Exported from Leith, from the first of November 1675, to the fourth of October 1681 inclusive, and of his Intromission with the Imposition due to the Town of Edinburgh for all Wines, and all foreign Beer and Ale, from the 12th of November 1676, to the 9th of November 1680 inclusive, with which Accompts and Payments, I hold myself well contented and satisfied: And therefore I by these presents Exoner &c. the said B. his Heirs and Executors, of his haill Intromission with the foresaid Customs, Excise and Bullion, and with the foresaid Seisures and Casualties, of all Goods and Merchandise, Impor-

Imported to, and Exported from Leith, from the said 1st of November 1675, to the said 4th of October 1681 inclusive, and of his Intrormission above-mentioned, with the Imposition due to the Town of Edinburgh, for all Wines, and of all foreign Beer and Ale from the 12 of November 1676, to the said 9th of November 1680 inclusive; and of all Action &c. Which Discharge, above-written, I oblige me to warrant &c. excepting and reserving always from this present Discharge and Warrantice thereof above-mentioned, such Debts and Sums of Money, as the said B. hath given up to me, to be resting of the Excise, and of the Bonds and Tickers, particularly mentioned in four fitted Accompts subscribed by him and me, on the — day of — last. And in case it shall be found, that any of the Sums therein-specified given up as resting, be payed; Then the said B. is to be liable for the same, notwithstanding of this present Discharge, Conform to his Obligement upon the end of the foresaid four Accompts.

Of Discharges by Minors to their Tutors.

A Discharge by a Minor with Consent of his Curators, to one who had been his Tutor, is in this Form. *Be it known &c. me A. with the special Advice and Consent of B. C. and D. my Curators for their Interest, Forasmuch as B. having been Tutor nominated to me the said A. and having accepted of that Office, and Acted accordingly; and I and my saids Curators considering, that the said Tutor had not any actual Intrormission with any Money or Means belonging to me, except 2000 Merks which was uplifted by him, and employed first in the hands of — and afterward uplifted from him, and now in the hands of — but allowed F. my Kinsman, who was formerly intrusted by my Mother, to receive any Annualrents that were uplifted for our use, since his acceptance of the foresaid Office, and who accordingly hath made clear Compt, Reckoning and Payment, of his Intrormissions therewith, conform to a fitted and subscribed Accompt, betwixt him and the said F. and the said Tutor hath made Compt, Reckoning and Payment to me and my saids Curators, of what was Intrormitted with by the said F. conform to the said Tutors allowance, And I and my saids Curators above-named, being very sensible of the great Care and Kindness, Fidelity and Diligence of the said Tutor my Friend, in the management of my Affairs during the time of my Tutory; And having now received from him such of the Writs and Evidents of the*

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Means:

Mans and Money belonging to me as were in his hand; And being most willing for the Causes, and upon the Considerations before mentioned, to grant to my said Tutor, a full and ample Discharge of the Premises: Therefore witt ye me, with Advice and Consent of my said Curators to have Exoner'd, quite Claim'd, and simply Discharged, and by these presents Exoner &c. the said B. Tutor foresaid, of all Goods, Gear, Debts, Sums of Money, Moveables, and other Estate whatsoever pertaining to me, which were Intromitted with by him, and of all Writts and Evidents pertaining and belonging to me, and of all Intromissions and Omissions wherewith he might have been charged relating to his said Office; dispenceing with the generality &c.

The Discharge hath sometime a Receipt of the Writts in the Subsumption, as thus; And also seeing the said D. hath delivered to me for my self, and in name of my said Sisters, the Bonds, Accompts, and other Writts after-specified, To witt, (here mention them in common form of Inventar) Together likeways with several Letters of Horning, Caption, and other Diligences done upon the said Bonds and Accompts.

The Clause of Receipt of the Writts is more general, in some Discharges thus; As also seeing the said C. and D. who had the sole custody and keeping of the Writts and Rights of my Estate, have for themselves and in name and behalf of my other Tutors, now delivered up to me, and to my said Curators, the whole Bonds, Obligations, Assignations, Translations, Contracts, Dispositions, Insestments, and other Writts whatsoever, pertaining to me; Together also, with the whole Instructions of the Discharge of all their Intromissions and Compts, whereof I grant the Receipt, and have also delivered to me the moveable Heirship with the household Plenishing, which was confirmed in my Fathers Testament, and which remained unrouped and not sold, and whereof I also grant the Receipt, Therefore witt ye me &c.

Or yet more generall thus, And having now received from them, all the Writts and Evidents of my Estate, which were in either of their hands, and also, having received from the said — the Writts concerning the Ward and Marriage, which was gifted &c. which were more particularly intrusted to him, by the other Tutors.

If the Discharge contain an Exoneration to a Factor appointed by the Tutor, the Narrative is in this form; Forasmuch

muchas B. Tutor latine to us, hath quit and given over his Office of Tutor, at the desire of some of our best Friends, and granted a Factory to C. for the managing and guiding of our whole Estate and Means, in manner specified in the Letters of Factory granted thereanent; And seeing the said C. hath most faithfully really and actually discharged the Trust that was committed to him as Factor for the said A. for my self, and as Curator to my said Sisters, of the whole Sums of Money and Others, which pertained to us, and which were Intrornitted with by him, or should have been Intrornitted with by his said Constituent, as the Accompt delivered by him to us, containing the baill Charge, with the Discharge and Instructions thereof, subscribed by him, and also allowed and subscribed by me the said— at more length porports, and also hath delivered the Writts, &c. Therefore witt ye us all with one Consent, for our selves, and as having Right to that part of the foresaid Sums which belonged to—our Sister, by expresse quality of the Bond of Provision above-specified, granted by our said Father, and me the said A. as Curator to, and taking burden upon me for the said—my Sisters, to have Exonered &c. the said C. and also the said B. Tutor above-nominate his Constituent, their Heirs and Executors of the whole Premises, and of all and whatsoever Debts, Sums of Money, Goods, Gear, and Others whatsoever, which we, or any of us, our Heirs or Executors, can ask, claim or crave, of the said C. as Factor for our said Tutor, or from the said B. his Constituent, by whatsoever manner of way, and of all Action, &c.

Or if one of the Tutors was appointed by the Others, Factor and Intrornetter; the Narrative, Subsumption and Discharge is in this form. Forasmuchas the deceast A. and B. C. and D. being nominate Tutors by my said Father to me, did accept the foresaid Office, and granted a Factory to the said D. one of their own number, for intrornetting with my Means and Estate, and management of my Affairs, during the whole time that I was under the Years of Tutor; And now seeing the said D. one of my said Tutors, who was Factor constituted by the rest, hath given in to me the Compt of his Intrornissions, with my Money, Means and Estate, and of his Depursements, Charge and Discharge of the same during the Years of my Tutor, Therefore, and in regard the said D. hath made payment to me and my saids Curators, of the Sum of—which was the Ballance of the Discharge of his Intrornissions,

whereof I grant the Receipt, and hold me well Contented, &c.

In this Case the Clause of Discharge should begin with a Ratification of these and of all Discharges &c. Thus, Therefore &c. not only to have Ratified and Approven, as I &c. the Factory above-mentioned granted by my saids Tutors to the said _____ and all that my said Tutors, and the said _____ as Factor foresaid have done in the Exercise of the said Offices and their said Intromissions, and the Accompts of Charge and Discharge given in to me, and the whole Instructions of the said several Discharges, as also the Discharges granted by the said _____ as Factor constitute by my said Tutors; and I do approve and allow the whole Premises, and declare my self fully satisfied and pleased therewith, But likewise to have Exonerated &c.

But, if one or more of the Tutors had the sole Intromission with the Pupils Estate by Permission, and not by Factory or Commission; the Narrative is, And also the said C. and D. had the only Intromission with my Estate, and took particular Care anent the management of my Affairs from the time of their accepting the foresaid Office of Tutor, And seeing the said C. and D. two of my said Tutors, and sole Intromitters with my Estate, Rents and Annualrent thereof, have given in to me and my saids Curators, the Accompts of their Intromissions and Debursments during the Tutorry with the Charge and Discharge of the same, together with the Instructions of the Discharge of the said Accompts, &c.

The Motive or Conclusion of the Subsumption is various, as, And I having at length seen and duly and fully Considered the same, I acknowledge the Instructions of the said Debursments and Discharge, to be True and of Verity, and that the Actings of my saids Tutors (Curators) and Factor, since the decease of my said Father to this time, have been for my well and advantage.

In another form thus, And now seeing that the said B. hath made Compt and Reckoning and Payment to me of his Intromissions with my hail Money, Means, Moveables, Goods and Estate, and with the Mails, Profits, and Duties of my Lands, during the whole time of his Tutorry to me, and hath given in to me the Charge and Discharge of the same, together with the Instructions of the Discharge; And I being fully satisfied and well pleased, with the said Accompts, and with the Articles and Instructions thereof, and withal being fully convinced of the care and kindness of my said Tutor, and of his concern for my Interest since my Fathers decease, Therefore &c.

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In a shorter Form, And being most willing for the Causes, and upon the Considerations before mentioned, to Grant to my said Friends, a full and ample Discharge of the Premises, Therefore, &c.

The Clause of Discharge is also thus, of all Goods, Gear, Debts, Sums of Money, Moveables, Maills, Duties of Lands and of all other Means and Estate whatsoever pertaining to me, for my self, or as Heir or Executor to my said Deceast Brother, or other of my Predecessors, which were Intromitted, or might have been Intromitted with by them, and of all Writs and Evidents, pertaining and belonging to me, and of all Intromissions and Omissions, &c.

Or in a better form thus ; of the haill Intromissions had by (the said D.) my said Tutors and Curators and Factor foresaid, with my Estate, Rents and Annualrents thereof, and of the Moveable Heirship, and haill Silver Plate, Household Plenishing, Lying Money, Gold and Silver, which was Confirmed in the Testament of the Deceast—my Father, And further, for certain onerous Causes and Considerations Moveing me, Wit ye me of my own proper motive, and certain knowledge to have exonered &c my said Tutors (and Curators) that are now on Life, their Heirs and Executors, and the Heirs Executors and other Representatives of the said Umquhil—And the said D. not only as one of the saids Tutors (and Curators) But likewise as Factor Constitute by the said Tutors, for themselves and me, of their said Tutory (and Curatory) and Factory, and of all omissions and negligence whatsoever, that may be laid to their Charge, relating to the exercise of their said Offices of Tutory (Curatory) and Factory and of all Action competent to me against them or any of them thereupon, and of the haill Bonds, Obligations, Assignations, Translations, Contracts, Dispositions, Charters, Infeftments, Seafins and other Writs of my Estate ; And of the haill Instructions of the Discharge of there Aceompts, of the Intromissions had by my saids Tutors (Curators) or Factors which are now delivered up to me as said is, and of all Action, Competent to me against my said Tutors (Curators) and Factor, for making further Compt and Reckoning to me, or for delivering to me the Writs and Evidents, and others above-mentioned, or on whatsoever other ground that may result upon the said Tutory (Curatory) or Factory, so as these presents shall be an ample and absolute Discharge to them anent the haill Premises.

In Discharges of Offices as Tutor, Curatory Factor, and the like, and in all general Discharges, after Enumeration of some of the Species of the Goods Intromitted with, there is a Declaration Dispensing with that generality in this Form,——Dispensing with the generality of this present Discharge, and admitting the same to be as valid, effectual and sufficient to all Intents and Purposes, as if every particular were specially mentioned, and expressed, whereanent we have dispensed, and by these presents dispenses (with consent foresaid) for ever.

Or thus,——And we declare this our Discharge, to be as Valid and Sufficient to them, as if the same were more special and particular whereanent, we all, with one consent have dispensed, And by these presents dispenses for ever, and renounces all exceptions in the Contrair.

If any of the Tutors or the Factor be Owing Money to the Pupil, or if there be Rents or Annualrents unuplifted, and not Compted for, This Declaration or Exception, is to be Subjoyned to the Warrandice. Declaring nevertheless, that this Discharge nor any clause contained therein, shall nor prejudice the Bonds after-mentioned and Obligement under-written, viz.——Which Bonds and baill Clauses and Obligements thereof are to continue in their full Force and Vigour, notwithstanding of this present Discharge, or any thing contained therein; Neither shall the same prejudice me of any bygone Rents that are yet Resting by my Tenants, or of any Rents which are Intromitted with by my Chamberlains, and not yet Payed in, nor Compted for to my said Tutors; So that it shall still be Lawful to me, to call them or their Heirs to Accompt there anent: In so far as, they have not Compted already in manner foresaid.

Some put this Declaration by way of provision before the Warrandice, and make the Discharge to be Warranted under that Provision, which is thus, Providing always, that my Granting of this present Discharge shall na ways hinder nor impede me to call for such Rests as are yet due by my Tenants, or Uplifted from them by the present Factor, and which are not yet Compted for by him to me, which Discharge, I Oblige me to Warrant, &c. under the provision always above-specified.)

In Case the Tutor be any way Bound or Ingaged for the Pupil, ane Obligement of Relief is needful, which is thus; And Lastly, I Bind and Oblige me and my foresaids, so Warrant,
Freeth

Freesh Relieve and Skaitblefs Keep my said Tutor (or Curators) and their foresaids, and the Representatives of such of them as are Dead, of all Sums of Money, principal Annualrents and Penalties, wherein they stand Ingaged for me, or the Deceast—my Brother by Bond, Contract, or any other manner of way whatsoever as Tutors (or Curators) to us, or either of us at any time, proceeding the day and date of these presents, if any of these Bonds shall happen to be found unreteired, or uncanceled and of all Coast, Skait, Damage or Expenses, and Interest, that they or any of them, or their foresaids, shall happen to sustain or incur there through in any sort.

In these Discharges mention is made of Sign'd Compts of Charge and Discharge of the Tutor and Factors Intromissions and Deburfments, at the end of which Compt and Reckoning, there is a Doequet of this Form, At Edinburgh, the _____ Day of _____ 1706, This is the Accompt of the Charge, Means, Money, Rents and Annualrents, which belonged to the said A. the time of his Fathers Decease, and since, with the Discharge thereof Fitted and Cleared, betwixt the said A. and B. for himself, and as Tutor and Factor for, and in name of the said A. his other Tutors (and as Curator to him, and in name of the other Curators) and in respect the said A. is fully satisfied with the foresaid Accompt, both Charge and Discharge thereof, and has Received the bail Instructions and Ballance of the same. Therefore he Discharges the said B. and all his other Tutors (and Curators) of all he can lay to their Charge, for Intromissions and Omissions, conform to a particular Discharge given by the said A. to them of this Date, under the Exceptions therein mentioned; In Witness whereof, the said A. and the said B. for himself, and in name foresaid, have Subscribed this and the Twenty preceding Pages, In Presence of &c.

Of Discharges granted by a Pajor to his Curators.

THere is little Difference in Discharges of a Curatory, from those of a Tutor, for the Obligation in both is the same, So what is said concerning Tutors serves for Curators, But in the narrative you mention, the Curators having been chosen, and their accepting in this manner—*Forasmuch as, B. C. and D. were Curators Elected and Chosen by me, and Accepted of that Office: And I wish their Consent, did Grant a Ratiory to* *the*

the said D. for Intrometting with my Means and Estate, Or when the Persons Discharged, were both Tutors and Curators, after a Narrative, which respects the Tutory, you say—Likew, after the expiring the saids Years of Tutory, I made choice of the saids——to be Curators to me, with power to them or any two of them, the said C. or my Mother being one to exerce the foresaid Office during my Minority, as the Act of Curatory bears; As also, the said C. and the said——my Mother, had the only Intromission with my Estate, and took particular care of the management of my Affairs, from the time of their being elected Curators to me &c.

The Subsumption and Discharge does not much differ from that in a Discharge of Curatory, except in this—And seeing that now after my full and perfect Age of 21 Years compleat the said——has given in to me the Accompt of his Intromissions &c. Therefore witt ye me, now after my full and perfect Age of 21 Years compleat to have Exonered &c.

In the rest of the Clauses of the Discharge, in place of Tutors you write Curators, or put both Tutors and Curators, or Factor, according to the Circumstances of the Parties.

Of Discharges granted by a Constituent to his Factor.

THE Stile of such Discharges, may be known from what is above-set-down, however for example take this following,—Be it known &c. me A. Forasmuchas, I did upon——grant a Factory to B. to uplift the Sums of Money, viz. (here narrate the Sums, the ground of Debt, and the Debtors Name, in a brief way) as the said Factory Registered &c. more fully reports; As also the said B. by his Receipt of the date of the foresaid Factory, doth acknowledge that he had in his Custody the saids three Bonds, belonging to me, with——of Money, and that he was to lend out the Money, and what Annualrents he should recover of these Sums upon Bond, to be taken to my self as the said Receipt bears, And likewise the said B. having uplifted the foresaid Sum of——which was due by C. with the Annualrent thereof, from Whitesunday 1688 to Whitesunday 1691, he did employ and lend out the same to the decest F. and took a Bond therefore by him and G. &c. having made up the same to the Sum of——and for which he likewise received a Bond of Corroboration by H. dated——As

As also the said B. having upon _____ received from I. in my Name, the Sum of 1000 Merks Money foresaid, which he did then lend out to K. upon Bond and Security given by him and his Son, being made up with the Annualrents thereof to 1200 Merks at the Term; And likewise, the said B. by his missive Letter dated _____ doth acknowledge that he had received 1000 lib. of mine from L. and whereby he promiseth an Accompt how he has disposed upon it, and accordingly having uplifted the 600 lib. that was due by F. and _____ he impleyed the same and Annualrents thereof, and the said 1000 lib. upon a Bond granted by the said F. as Principal, and _____ as Cautioner to me, of the date _____ bearing Interest from Whitesunday in that Year: And inlike manner, the said B. having pursued N. as Heir to the said D. for the Sum above-specified due by him, he did upon _____ obtain a Decree before the Lords of Council and Session, against the said N. for the samen, and upon _____ he procured from N. a Bond of Corroboration, whereby the Annualrents resting at Candlemas 1684 were Accumulated to the principal Sum, and in which _____ is also Cautioner in manner therein exprest, And now seeing, the said B. hath given up to me the foresaid Bonds granted by _____ for the 2400 lib. with the original granted by D. and Decree obtain'd against N. and the registred Bond of Corroboration thereof granted by him and _____ for 1793 lib. and Letters of Horning, Inhibition and Adjudication upon the said Bond of Corroboration; as also a Bond by the said F. as Principal, and _____ as Cautioner for 1876 lib. and a Bond by _____ for 1200 Merks, with an Assignment granted for farther Security of that Debt by _____ with all which I hold me well Contented and fully Satisfied, Therefore witt ye me, so have Exoner'd, quite Claim'd, and simply Discharged; Likewise, I &c. the said B. his Heirs and Executors of the Factory above-mentioned, and of the missive Letters, Receipts and Obligation above-specified, and of the baill Sum of Money contain'd therein in so far as he was liable to me therefore, and of all Action and Execution Competent, or that may be Competent to me against him thereunto; which Discharge, I bind and oblige me, my Heirs and Executors, so warrand to be to the said B. and his foresaid a sufficient Exoneration anent the Premises, at all Hands, and against all deadly; and I do hereby ratify the Discharge granted by him to _____ Son and Heir to the said decest C. of the Sum above-specified that was due by his Father.

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Of Discharges of Depending Proceedings and Decretes.

IN Discharges of Depending Actions, you briefly Narrate the Summons, and all that has followed thereon, as the Interlocutors of Court; if any be, and Subsumes, that the Defendant has satisfied the Claim, or the like, Expressing the true matter of Fact, or in general thus. And now seeing for certain *Quarous Causes and Considerations* it is agreed, that I should, (or I'm Content to) Grant the Discharge under-Writen, Therefore, &c.

But all this will be better illustrated by the following Discharge of a Decree. — Be it known &c. Me T. W. Forasmuch as C. D. having an Action and Cause of Spuilzie Depending before the Lords of Council and Session, against Umquhil D. for the *Wrongous, Violent and Masterful Spoliation* from him, of the Goods and Gear under-Writen; upon the which Dependance, the said C. D. raised Letters of Inhibition against the said Umquhil D. which were duly and lawfully Published at his Instance, upon the — Day of — &c. Years, The said C. D. thereafter Made and Constituted me the said W. his Cessioner and Assigney, in, and to the said Action, which was then Depending, before the said Lords, with all Might Befule and Follow thereupon, and Transferred the Right thereof in my Person, and Surrogated me in his Place thereof, as the said Assignation of the Date &c. at more length bears, And by reason the said Action was Intensed before the Date of the said Assignation at the Cedents Instance; I insisted in Pursuit thereof, and obtained Decrees of Spuilzie therein, against the said Umquhil D. Decerning her to have done Wrong, in the *Wrongous, Violent and Masterful Spoliation* from the said &c. Cedent, in the Month the &c. Pryor &c. of &c. And therefore Decerning the said Umquhil D. to Restore and Deliver the said Goods and Gear, or else the Avails and Prices of the same respective foresaid, and also to make Payment to the said &c. of the Sum of &c. of Expenses, as the said Decree at more length bears; Whereof she made no Payment at no time before her Decese. And therefore I the said &c. Assigney above-named, Intended Action before the said Lords of Council and Session, against — as universal Intromitters with the Goods and Gear of the said Umquhil, &c. since her Decese; and upon the — Day of — I obtained Decrees before the Lords of Council and Session, against them, Decerning them to Com-

Content, Pay and Deliver to me as Assigney foresaid, the Goods, Gear and others above-Written, or the Avails and Estimation thereof, as the Prices contained in the said Decreet, and to make Payment to me of the saids Expenses, as the said last Decreet at more length bears: Upon the which Decreet, I raised Letters &c. and by vertue thereof, caused Charge &c. the said &c. Likew, the saids _____ for their Contempt and Disobedience, were upon the _____ Day of _____ orderly Denounced &c. as in the Letters of Horning, Execution and Denunciation, at more length it contained: And now, because the saids _____ for Obedience of the saids Decrets and Letters, and in satisfaction thereof, has presently Made and Granted to me an Obligation, Containing the Sum of _____ Money of this Realm, viz. the one half thereof to be Payed to me, my Heirs and Assigney, betwixt the Date of this Present, and &c.

So ther's in effect no difference, but in the Narration of the ground of Debt, for a Decreet, in order to a Discharge, may be variously narrated, and more briefly than in the preceeding Example, thus. Be it known, &c. us _____ Forasmuch as, upon the _____ Day of _____ last bypast, we obtained an Decreet before the Lords of Council and Session, against _____ and certain other Persons therein contained: Decerning and Ordaining them to Warrant Free, Relieve and Skaithles Keep us, and ilk an of us, our Heirs and Executors, of an Duty of _____ Merks Money _____ of Expenses for ilk Terms Failzie, and of all Coast, Skaith, Damages and Expenses which we have Sustained, or shall Sustain, or Incurr therethrough, and for not Reporting and Delivering to us sufficient Acquittances and Discharges thereupon, for our better relief thereanent, And also to make Payment to us of the Sum of _____ for the Charges and Expenses already Sustained by us, conform to the said Decreet, for the Reasons and Causes therein contained, as the samen of the Date foresaid, at more length bears, whereupon we Raised Letters of Horning, and by vertue thereof, caused Charge and Denounce the saids _____ to the Horn, for not Observing, Keeping and Fulfilling to us of the said Decreet conform thereto. As also, have caused Take, Apprehend and Incarcerat the said &c. within the Tolbooth of _____ where he presently Remains, ay, and while he fulfill to us the said Decreet, in all and sundry the heads and points thereof above-Written conform thereto. And now forasmuch as for obedience of the said Decreet

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Letters.

Letters and Charges Raised thereupon, the said ——— has made Payment to the said ——— of ——— Money foresaid, contained in the said Decree, and has Purchased and Delivered to us a sufficient Acquittance, and Discharge from the said ——— and of the said Penalty of ——— Money, for ilk Terms Fail zie; As also, has Satisfied and Contented me the said ——— of the said Sum of ——— of Expences and Charges sustained by me in manner foresaid, of the which Discharges and Sums of Money, we Grant the Receipt, and hold us well contented and Satisfied: Therefore witt ye us to have exonered, quite claimed and Simpliciter Discharged, And by the Tenor hereof, all with one consent, and assent we Exoners &c. the said ——— and all other Persons above-mentioned contained in the said Decree, and ilk one of them, their Heirs, Executors, Assignes and all others whom it effeirs, of the said Decree, and of all Letters of Horning, Poynding, Inhibition, Arrestment, Caption, and others raised thereupon, with the Executions thereof, and all that has followed, or may follow upon the samon, And we Grant the said Decree and all that has followed, or may follow thereupon, to be duely Satisfied, Keeped and Fulfilled by the said Persons to us, conform thereto, in all points, Likeas, we have instantly delivered to the Persons above-named the said Decree, with the Letters of Horning, Poynding, Inhibition, Arrestment, and Caption raised thereupon, with their Executions, to be Cancelled and Destroyed by them for ever, or otherwise used by them at their pleasure, which Discharge above-written, we Bind and Oblige us to Warrant to them at all hands &c.

A Discharge of an Advocation of a Service.

I A. with Consent of ——— for certain good Causes, &c. moving us by these presents, Discharge the Advocation and Charge following thereupon, Raised at our Instance contra ——— Whereby the Breives and Service of the saids ——— as Heirs to Umquhil ——— was by the saids Letters of Advocation stayed, and the Sheriff of ——— and his Deputs, Discharged of all further proceeding. And by these presents, we Consent and are Content, that the saids ——— be Served and Retoured Hiers to Umquhil ——— and that thir Presents shall be an sufficient Warrant to the said Sheriff of ——— and his Deputs, to proceed in the Service of the said ——— Brevis as Heirs foresaid, notwithstanding of any Advocation Raised by us, or any other Impediment whatsoever that can be alledged or proponed by us in the contrair by these presents, &c. Registration.

When

When one Purchasses a Land Estate against which real Diligence has been used, which is Payed by the Price, and the Purchasser inclines to keep still the said Diligence, and for his better Security makes use both of it, and the Voluntary Right, in which case, it is just, that the Debtors Person, and his other Estate Moveable or Un Moveable be made Free, which Discharge is in this Form.

Be it known &c. me A. (here narrate the ground of Debt, and Writs to be Discharged with the Rights thereto) And now for certain Causes and Considerations moving me, Witt ye me to have Exoner'd, Quiteclaim'd, and Simpliciter Discharged, Likeds &c the said B. his Heirs and Executors of all real and personal Execution that may be used against him, as Heir or appearant Heir to the Deceas'd ——— or against the Lands and Estate Heretable and Moveable pertaining, or that shall pertain to the said B. for the Debts and Sums of Money particularly above-mentioned, contained in the foresaid Comprising and grounds thereof butt prejudice, nevertheless of the said Comprising, insofar as, the same may affect the Lands, Teinds, Coal Heughs, Salt Pans and others above-specified App'ysed thereby, and Butt Prejudice to me of my Right to the saids Lands, by vertue of the samen Comprising : And further, I by these presents, Exoner, Quite Clame, and Simpliciter Discharge the said B. his Heirs and Executors, of all real and personal Execution that may be used against them, their Lands and Estate, personal or Real, for Payment of the foresaid Sum of ——— with the Annualrent thereof and Liquidat Expences contained in the Bond of Provision above-specified, Granted by him to me, And I do hereby Declare, That the said B. his heirs, Executors and other Representatives, are hereby, and shall be, fully Liberated, Freed and Discharged of all Execution Competent, or that may be Competent to be used for the Sums before mentioned, contained in the foresaid Comprising, and Bond of Provision against them, their Means or Estates Heretable or Moveable, or any Part or Portion thereof, by whatsoever manner of way, and that I shall not Trouble, Molest nor Distress them thereanent, nor prejudice them therein any way whatsoever, and that I shall only make use of the saids Debts specified in the foresaid Comprising and Bond of Provision for affecting the saids Lands of ——— Coal-heughs, Salt-pans, Teinds and Pertinents thereof, And therefore it is also declared, that notwithstanding of this Discharge is shall be leifom and without prejudice to me, to Compryse or Ad-
judge

Widge from the said B. as charged to enter Heir in special to the said
 the saids Lands of — and others contained in the foresaid
 Apprising, for the Sums contained in the foresaid Bond, and so
 affect the saids Lands therewith, and the saids Debts hereby Dis-
 charged, are to have no further Force, Validity nor Effect, nor
 are to be made use of by me or my foresaids, but alenarly for affe-
 cting the saids Lands of — and others specified in the said Appry-
 sing formerly led as my Instance, and no further.

In another form thus, — And seeing the baill principal Sums
 abovementioned were allowed by the said B. and C. to W. W. in the
 first end of the price of the half of the Lands of — which were Dis-
 posed irredemably to them by the said B. and C. and their Credi-
 tors, in manner mentioned in the two several Dispositions made
 thereant, both dated — whereupon it was conditioned that the
 saids W. should procure to the saids B. and C. and their Constitu-
 ents above-named, a Discharge of all Action both Personal and
 Real competent against them and their Estate, Heretable and Mo-
 vable, by vertue of that wadset Right, heretable Bonds and Infe-
 sments abovementioned, except in so far as the same might militate
 for their further security and possession of the Lands and Others Di-
 sposed to them by the said B. and C. And also seeing the said W.
 W. by their two several Dispositions of the date &c. have Disposed in
 favours of me and my foresaids, their respective halves of the half
 of the foresaids Lands of — and have likewise procured the
 Dispositions and Assignations of the several heretable Rights above-
 rehearsed to be granted in my favours, upon condition that I should
 grant this present Discharge in the Terms after-specified, for fulfil-
 ling of the Obligement made by them to the said C. thereant,
 Therefore wit ye me as having Right in manner above-written to
 have Exonered, quite Claim'd and simply Discharged, Likeas, I by
 these presents Exoner &c. the saids B. and C. their Heirs and Exe-
 cutors, and also the Heirs, Executors and other Representatives of
 the said unquibile J. and all others whom it effairs, of all personal
 Execution, competent, or that may be competent to me, my Heirs,
 Executors or Assignes, against them, or any of them, or their fore-
 saids, upon the Bonds above-mentioned granted to the saids P. and J.
 and Bond of Corroboration thereof, and sicklike, upon the two Bonds
 above-rehearsed granted to the said W. and his Spouse, and also upon
 the Contract above-specified, past betwixt the said J. and the said
 unquibile J. and C. or upon any of the saids Rights, for the Sums of
 Money

Money, Principals, Annualrents and Expenses respectively above-written therein contained, or any part thereof; And also, of all real Execution competent, or that may be competent to me, or my fore-saids therefore, against any of the said Debtors, their Lands and Estate, presently appertaining, or which shall happen to pertain to them, or any of them, excepting namely the half of the said Lands of— with the Pertinents disposed by the said J. and C. to the said W. W. and by them to me as is above-mentioned; for farther security whereof it shall be lawful to me and my fore-saids, notwithstanding of this present Discharge, to Apprise or Adjudge the same upon the said Bonds and Concesses, and to use what further Execution shall be necessary in order thereunto, whilk Discharge above-written, according to the Quality above-specified, I bind and oblige me, my Heirs and Successors, to warrant &c.

Sometime it happens that Cautioners or Others who have Corroborated the original Bonds, are Discharged, and yet all competent Execution against the Principal is reserved by the Creditor; the which Discharge may be in this or the like Stile,— And seeing when the said H. did assign me to the fore-said Bond of Relief granted by the said— and Decree of Suspension following thereon against the said— and his Cautioner, and to the Annualrents above-mentioned, which the said H. had paid I did then undertake and oblige my self to procure from the said E. an valid Assignment and Right to the fore-said Bond granted to her and her said Mosher by the said M. and Cautioners above-named, of the said Sum of 7000 Merks and of the Infeiments of Annualrent fore-said following thereupon, and of the said Annualrent from and after the Term of Candlemas 1670 and of the principal Sum above-specified; whereupon the sume is redeemable, and having obtained the said Assignment and Right thereto, I obliged my self to Discharge the said H. and the said W. and also the representatives of the said unquibile M. of the Bonds above-specified and Sums contained therein, in manner after-mentioned, Butt prejudice to me of the said Infeiment of Annualrent out of the Lands fore-said as is after express; And in respect that I have now acquired the said Assignment and Disposition as is above-narrated: Therefore wit ye me, as having Right in manner fore-said, to have Exonerated &c. Likeas &c. the said B. Cautioner above-named in the fore-said Suspension, his Heirs and Executors, of all Execution real or personal, that is or may be used against him upon the Bond of Cautionary above-specified, and

Decree

Decreet of Suspension foresaid following thereupon, and of the same Bond and Decreet, Sums of Money, Principal, Annualrents and Penalty above-specified, contained in the said Bond granted by the said decess'd M. and his Cautioners to the saids E. and F. and their foresaids, and in the said Bond granted by the said W. for payment of the Sums above-written to the saids E. and F. and their foresaids, and in the said Bond of Cautionry in the Suspension foresaid, raised by the said _____ whereby the said B. as Cautioner for the said W. is obliged to have made payments to the said E. and her said Mother, of the Sums of Money above-written, contained in the Bond granted to them by the said M. and his Cautioners and of the foresaid Penalty of 1000 Merks specified in the Bond of Relief granted by the said W. thereanent, after the discussing of the Suspension above-specified, baill Tenors and Contents thereof, and of all Letters of Horning and Inhibition if any be raised and Execute thereupon against him, and all other Diligence that has followed or may follow upon the same for now and ever; which Discharge above-written I bind and oblige me to warrant to be a sufficient Exoneration to the said B. anent the Premises at all hands &c. And bind and oblige me to warrant and relieve him and his foresaids, of all Cost, Skaith, Damage, Expences or Interest, that they shall happen to sustain or incur through the said Bond of Cautionry, or by the said B. his becoming bound and obliged therein as Cautioner for the said W. in manner foresaid in any sort, Butt prejudice to me of the said Infeifment of Annualrent out of the Lands above-express, ay and while I get payment of the Sums of Money, Principal and Annualrents, (whereunto I have Right) from the said W. Hereof of the saids Lands, out of which the said _____ is appointed to be uplifted, and who is obliged to pay the same by the Bond above-written, and to relieve the said B. of his Cautionry, conform to the Clause of Relief therein-mentioned, but no ways to use Execution for the same, against the said B. as said is.

A Discharge of a Bond of Interdiction.

THO Bonds of Interdiction are perpetual and last so long as the Interdictors or a Quorum of them with the party Interdicted live, yet he may come to better Understanding and more sober Manners, and be fit to for managing his own Affairs; in which case the Bond may be Discharged, which is done in this form: _____ Be it known &c. in A. B. C. Foras-

muchas,

innuas (here narrate the Bond of Interdiction and then sub-
 tune;) And we considering that the said D. is of considerable
 Age, and that he hath sufficient Knowledge, Capacity and Experi-
 ence, for right Administration, Management, Governing, and Or-
 dering his own Affairs, and that there is now no use of the foresaid
 Interdiction; But that it is just and reasonable that he be Liberated,
 Freed and Loosed therefrom, that he may Administrate, Govern, and
 Order, his own Affairs, by himself as his pleasure, without our Con-
 sent and thereto. Therefore wit ye in the saids A. B. and C. the
 only Persons now on Life of the saids five Interdictors, all with one
 consent, To have Exoner'd, quite Claimed, and simpliciter Dis-
 charged, As we by these present Exoner, &c. the Bond of Interdiction
 above-mentioned, granted by the said D. to us, Letters of Publica-
 tion, and Registration thereof, and all that may follow thereupon:
 And we all with one Consent and Assent, do hereby Liberate and
 Loose the said D. therefrom; and we are content and do hereby con-
 sent, that the said D. by himself alone, without Consent of us, or
 either of us, may freely grant Bonds, Obligations, &c. (as in the
 Bond of Interdiction) sicklike and as freely, &c. as he did and
 might have done, &c.

But if the Interdiction was Judicial, such a Discharge by
 the Interdictors is not sufficient; the only means to remove
 such, is by Process of Declarator; *Nam nihil tam naturale est,*
quam unum quodque eodem modo dissolvi quo colligatum est.

Not only Claims and Rights, which are Constituted and
 Liquid, can be Discharged; but also these whereunto our
 Right is only in Appearance, and in *Spe*: Such are, Renou-
 ciations to be Heir, and Discharges of all that one can ask or
 claim, by and through the Decase of a nearest of Kin, Pa-
 rent, Brother, or other Blood-Friend.

A Renunciation to be Heir, is in this Stile; *Be it known*
 &c. me A. eldest lawful Son and appearand Heir to the deceast—
 my Father, Forasmuch as there were Letters purchast, and Charges
 execute against me, at the instance of B. Charging me to enter Heir
 to my said deceast Father within forty Days, conform to the Act of
 Parliament, to the effect that he may intent and pursue all Actions
 and Causes competent to him, for himself, and as Assigney constitute
 by diverse and sundry Persons against me, as Heir to my said deceast
 Father; with Certification to me, if I failzie therein, the said 40
 Days being bypast, that the said B. shall have sicklike Process and
 Execu-

Execucion and Action against me, as if I were Entered, Served and Retoured Heir, to my said Deceast Father; notwithstanding that I, in manifest Defraud of him thereanent, wrongously ly forth and will not enter as said is; As the saids Letters and Summons, raised thereupon, and Executions thereof at more length imports. And seeing I am not resolved to enter Heir to my said Deceast Father, in respect I may incur great skaith therethrough; Therefore, witt ye me to have renounced, Likeas, I by these Presents renounce to enter Heir to my said deceast Father, and quite all benefite competent or that may be competent to me as Heir to him; and am content, and by this presents consent, that the foresaid B. have Action and Execution, for all Debris Resting by my said Deceast Father to him, for himself and as Assigney foresaid, contra hæreditatem jacentem & bona mobilia pertaining to my said Deceast Father, the time of his Decease, as accords of the Law. Registration: Ad futuram rei memoriam.

Discharges of all that one can ask through the decease of a Parent, are seldom or never in Writes separate, but more frequently conjoin'd to others; as Contracts of Marriage, to which we referr them.

Thus much concerning Discharges of personal Claims, and of moveable Rights, we come now to treat of Discharges or Renunciations of real and imoveable Rights, as of Infestments of Annualrent, of Wadsets, Apprising or Adjudications, or of the Reversions competent to the Wadseter, or Debitor in the Comprising, and also of Liferent Rights, &c.

A Discharge and Renunciation of an Infestment of Annualrent by the principal Creditor, to the original Debitor.

BE it known &c. me A. Forasmuchas B. and C. by their Bond, &c. (here narrate the Bond and the Requisition mentioned in the said Bond) and there being only 40000 Merks required at one Term, with the Sum of 4000 lib. Money foresaid, of liquidate Expences for ilk Terms failzy, together also with the Annualrent and Profire of the said haill principal Sum, Yearly and Termly, at Candlemas and Lammals by equal portions, beginning the first Terms payment thereof at Lammals then next to come, now last bypast, for the half Year preceeding that Term, and so furth Termly thereafter, at the Terms above-specified by equal portions,

tions, during the not payment of the said principal Sum, with the
 Sum of 200 lib. Money foresaid of liquidate Expences, for the
 Terms failz through the not payment of the said Annualrent, to
 ties quoties; And for further Security thereunto, the said B. and
 C. bound and obliged them, conjunctly and severally, and their fore-
 saids, duly and lawfully to Infeft and Sease me in Liferent, and
 ——— which failzving, &c. Heretably and Irredeemably, under Re-
 version always in manner after-specified, and under the Reservati-
 ons, Provisions, and Conditions, after-mentioned; in all and hail,
 an Annualrent of 4800 Merks Money foresaid, Yearly to be uplif-
 ted at Candlemas and Lammas, by equal portions, furth of the
 Lands and Barony of L. &c. or forth of any part &c. and that by
 two severall Infeftments to be holden, and with absolute Warandice
 in manner mentioned in the said Bond, whereby the said Annualrent
 is provided to be Redeemable by the saids B. and C. their Heirs or
 Assignes, by real payment making, &c. in manner, and upon the
 premonition specified in the foresaid Bond, whereby there is reserved
 always to me the said A. at any time of my Life, &c. Conform
 whereunto and precept of Seafine, &c. Likeas, the said B. having
 caused premonish me to receive at Lammas last 80000 Merks,
 with an Terms Annualrent thereof, from the Candlemas preceeding
 to that Term; And hath accordingly at the said Term of Lam-
 mas last bypast, made payment to me of the foresaid Sum, with
 2400 Merks for the Annualrent thereof from Candlemas to
 Lammas in this instant Year 1706, whereof I grant the Receipt,
 renouncing all Exceptions, &c. Therefore wit ye me, as having
 Power by the expresse Quality of the Bond above-Written To
 have granted and confessed; Likeas, I &c. The said Annualrent of
 4800 Merks correspondens to the said Sum of 80000 Merks,
 now presentsly paid, to be duly and lawfully Redeemed from me and
 my said Son, by the said B. and C. And in testimony thereof, I
 as having Power in manner above-written do hereby not only
 Exoner, quite Claim and simpliciter Discharge them, their Heirs
 and Executors, of the said Sum of 80000 Merks, and of the Annu-
 alrent of the said Sum, from Candlemas last in this presene
 Year 1706, and of the termly Failzies and liquidate Expences
 effeirand thereto, and of the said Bond it self, and of the Instrument
 of Seafine following thereupon: But also, I as having Power in
 manner above-written by these presents Renounce, quite Claim,
 and simpliciter Over-give, from me and my said Son, our Heirs and

Assigns, so and in favour of the said B. and C. and their Heirs and Assigns, whatsoever, the foresaid Annualrent of 4800 Merks corresponding to the said Sum of 80000 Merks, with the Bond and Indemnity above-specified following thereupon, and haill Obligations thereof, conceived in favour of me and my said Son; And that I may be fully Demuded of the said Annualrent, I by these presents make and constitute _____ Procurators, to Resign, &c. Likewise, I as having Power in manner above-express, do hereby Resign, &c. all and haill the foresaid Annualrent of 4800 Merks contained in the foresaid Bond and Seafine, with the Bond and Seafine themselves, In the hands And In favours, of the said B. and C. their Heirs or Assigns, my immediate Superiors thereof, ad perpetuam remanentiam, so the effect that my Right of Property of the said Annualrent hereby Renounced and Resigned, being consolidated with the said B. and C. their Right of Superiority thereto; all and haill the foresaid Lands and Barony of L. with the Pertinents lying and comprehending as said is, may remain and abide with, and be enjoyed and possess by them and their forefathers, As free of the burden of the Annualrent hereby Renounced, As if the same had never been granted; And thereupon to take Instrument, which I promise to Ratify: Which Discharge, Resignation and Renunciation above-written, I bind and oblige me, my Heirs, Successors, and Executors, to warrant to the said B. and C. and their forefathers, at all hands and against all deadly: Consenting to the Registration hereof in the Books of Council and Session, general or particular Register of Seafins, Renunciations, &c. or Books of any other Judicatory competent, &c. ad futurum rei memoriam; and if need be, &c.

If the heretable Bond was in favours of a Man and his Wife in Liferent, and to his eldest Son nominatim in Fee, containing a Faculty to the Father to uplift the Money and give Discharges. This Faculty is narrated with the Bond, and in the Clause of Discharge, you say, Therefore wit ye me, as having Power by the expresse Quality of the Bond above-written, to have Granted and Confessed, &c. But also, I as having Power in manner above-written, by these presents Renounce, &c. And so forth in the other Clauses.

If the Lands out of which this Annualrent was upliftable be sold to another, in that case the Renunciation must be in favours of the Purchaser, as well as of the original Debtor, and

and Renunciation and remanentiam must be made in his hands, thus; — by these presents Renounce, quite-Claim, &c. to and in favours of the said B. (the Debitor) and C. who has now acquired Right to the Lands and Others above and after specified, out of which the said Annualrent is to be uplifted, their Heirs and Assigns whatsoever, &c. And in the Renunciation, thus; — In the Hands, and in favours of the said B. (the Debitor) his Heirs or Assigns, my immediate Superiors thereof ad perpetuum remanentiam; and in case the said C. (the Purchaser) be Infeft in the foresaid Lands and Superiority of the foresaid Annualrent, then in the hands and in favours of the said C. his Heirs or Assigns, my immediate Superiors thereof for the time, ad perpetuum remanentiam; to the effect that the Right of Property of the foresaid Annualrent being Consolidated with the said B. and C. respectively, for the time, their Right of Superiority, all and hail the foresaid Lands, &c.

In case the half of the principal Sum be paid, the Discharge and Renunciation must only be of the half of the Annualrent. The heretable Bond, Infeftment, and Preemption, if any be made, being narrated in common Form; the grant of Redemption is thus; — Confess the equal half of the said Annualrent of 4800 Merks corresponding to the said Sum of 40000 Merks, now presently paid, to be duly and lawfully Redeemed, &c. — Discharge of the said Sum of 40000 Merks in a part of the said Sum of 80000 Merks, and of the Annualrent of the said Sum of 40000 Merks from Candlemas to Lammass in this present Year 1706, and of a proportional part of the yearly Fatties and liquidate Expenses thereof, and of the said Bond to self, and of the Instrument of Sasine following thereon, in so far only as can be extended to the Sum hereby Discharged, so that the said Bond and Sasine is from this time forth to be restricted and to stand only for 40000 Merks of principal Sum, and an Annualrent of 2400 Merks Yearly, and the proportional part of the Expenses and yearly Fatties thereof and thereon. But also, by these presents Renounce, &c. from this, &c. the foresaid Annualrent, as in the preceding Bills of Discharge and Renunciation.

A grant of Redemption, Discharge and Renunciation of a Wadset, granted by a Factor; the Lands being holden of the Wadsetter's Superior, is in this form; — Be it known &c. we R. Factor and Commissioner, specially constituted by R. for as-
lifting

and receiving all and whatsoever Sums of Money, both
 principal Annualrents, and Back-sack Duties resting unpaid, or that
 should be resting to the said B. by Bonds, or by Contracts of Wadset,
 Decretes, or otherways, by whatsoever Person or Persons, and specia-
 lly but prejudice of the generality foresaid of the Sum of — due
 by C. and upon receiving payment, to grant Discharges and Renoun-
 ciations one or more, and such other Writes as should be requisite, and
 to oblige him and his Successors in absolute Warrantice thereof, con-
 form to the Faculty and Commission granted by B. to me, of the date,
 Registered, — Forasmuchas, (here was narrated a Con-
 tract of Wadset in common form) And seeing the said C.
 hath made payments to me, by order from, and in name and behalf of
 the said B. of the Sum of — as a part of the said Sum, and of the
 Annualrents or Back-sack Duties, of the said hail Sum extending
 to — from Martinmas 1705, to Whitesunday last in this
 instant Year, 1706, the Back-sack Duties preceeding Martinmas
 last being paid then and before, to the said B. himself, conform to
 bill Discharges given thereof, and which Sum of — Principal,
 and — Back-sack Duties, I have applied and employed
 to the use and behoof of the said B. and for doing his necessary Af-
 fairs: Therefore wit ye me as Factor and Commissioner foresaid,
 and as having Power in manner above-mentioned, to have Granted
 and Confessed, As I, by these presents grant and confesses the Lands,
 Barony, and other Annualrent Wadset, as said is, in so far as con-
 cern the said Sum of — and byrun Back-sack Duties till White-
 Sunday last in this instant Year 1706, To be duly and lawfully
 Redeemed, from the said B. my Constituent, by the said C. And
 in testimony thereof, I do hereby not only Exoner, quite Claim
 and simplify Discharge the said C. his Heirs and Executors of
 the said Sum of — as a part of the said Sum of — and
 of the hail Annualrents of the said principal Sum of — till
 Whitesunday last, and of — of the said Back-sack Duty Yearly,
 effect and to the Sum now paid, in all to the said Whitesunday last,
 and of a proportionable part of the said Back-sack Duty, and thereof, and
 of the foresaid Condition in itself, and Registration following hereupon;
 in so far only as may be intended to the said C. and his Discharged, so
 that the said Contract of Wadset and Back-sack Duty, and Rever-
 sion, is still due and owing to the said B. and to stand only for
 — of principal Sum, and — of Back-sack Duty Yearly;
 But also, I as having Power in manner above-mentioned, do hereby
 present

presents Renounce, quite Claim, and simpliciter Over-give, from
 the said B. my Constituent, his Heirs and Assignes, to and in fa-
 vours of the said C. his Heirs of Tailzie and Provision succeeding to
 him in his Lands and Estate of ——— the Lands, Barony, and
 Others above mentioned, following thereupon, and hiall Obligation
 thereof conceived in favours of the said B. and that alenarly, in so
 far as concerns the said Sum of ——— and Back-rack Duty, here-
 by Discharged as said is; And that he may be fully Denuded of the
 Wadsets, so far as concerns the Sum now Discharged; I by these pre-
 sents, as having Power in manner above-express, now as if the said
 B. were already Infeft and Seas'd in the saids Lands and Barony,
 and then, as now, make and constitute ——— and ilk one of them,
 Conjunctly and Seaverally, his very lawful Procurators for him, and
 me as his Commissioner, and in our name, to Resign, Surrender O-
 vergive and Deliver; And I as having Power in manner above-
 mentioned: Do hereby Resign &c. all and hiall the Lands Barony
 and others above-rehearsed, contained in the foresaid Contract of
 Woodset Right it self, In so far as concerns the said Sum of ———
 In the hands of my said Constituents, immediate lawful Superiours
 thereof, presently being, or that shall happen to be for the time, or
 of his and their Commissioners having power to receive Resignations,
 in his or their names, In favours and for new Infeftment of the sa-
 men, to be made and granted to the said C. and his Heirs of Tailzie,
 and Provision succeeding to him in his Lands and Estate of D. to the
 effect, that the foresaid Lands and Barony of J. and others contain-
 ed in the foresaid Woodset, may be bruiked and possesst by him and
 his foresaids, free of the burden of the said ——— now payed and
 renounced in all time coming, and thereupon to take Instruments,
 and do every thing needful thereanent, that I or my said Constituents
 may do, our selves if we were present, and whilk I promise to ratify.
 Which Discharge, Renunciation and Resignation above-written;
 I by vertue of the foresaid Factory and Commission, and power given
 to me thereby, Bind and Oblige the said B. his Heirs and Executors
 to warrant to the said C. and his foresaids, at all hands and against all
 deadly, Likeas, I bind and oblige me my Heirs and Executors, to cause
 the said B. and his Heirs, Renew this present Discharge and Renoun-
 ciation, when ever we shall be desired for that effect: till the said
 C. and his foresaids be sufficiently secured thereanent; Registration
 in the Books of Council and Session: general or particular Register
 of Renunciations, Seafins, &c. or any other competent Register
 with.

within this Kingdom therein, to remain ad futurum rei memoriam, and Letters, if need be.

A Creditor having Adjudged the Lands and Estate belonging to the Principal and Cautioners, he at the earnest desire of the Principal, being to Discharge one of the Cautioners, and Renounce the benefite of the Apprysing, in so far as concerns his Lands: The Tenor of this Discharge and Renunciation is as follows,

Be it known, &c. me A. Forasmuch as, (here narrate the Bond and Apprysing, and other Diligence, with the Decreet, Affligation or Translation made to the Discharger) And seeing I the said A. am so far satisfied with the Security I have of the Lands and Estate which did belong to, and were Comprysed from, B. principal Debitor, and his other Cautioners for the said Debt, that I do not intend to use any Diligence for the same against C. or any of the Representatives of the said Deceast C. his Father, but am willing to grant the Discharge under-written, Therefore witt ye me at the desire, and with the special advice and Consent of the said B. to have not only Exonered and Discharged, as I by these presents with consent foresaid, Exoner and Discharge the said C. his Heirs and Executors, and all the Representatives of the said Deceast C. of all Action and Execution competent to me against them, by vertue of the Bond abovementioned, granted to the said Unquibile——— or by vertue of the Comprysing following thereupon, whereunto I have Right in manner above-written, for now and ever: But also to have Renounced quite Claimed and Simpliciter Discharged and Over-given, as I by these presents &c. all Right and Interest that I the said A. by vertue of the Comprysing above-mentioned and Disposition, and other conveyances made to me of the same, have or can pretend to the Lands and others above-rehearsed, or any part thereof, which pertain'd to and were Apprysed from the said Deceast C. his Heirs and Successors, for now and ever, Which Discharge and Renunciation. I the said A. Bind and Oblige me, my Heirs and Executors, to warrante from my own proper Fact and Deed alienarly, to witt that I have not Granted, and that I nor my foresaids shall not Grant any Right or Disposition of the foresaid Apprysing and ground thereof, that may be harmful or prejudicial hereto in any sort, Declaring nevertheless, that these presents are Granted by me, without receiving of any Munny, or Gratitude or good Deed, but freely and willingly at the earnest desire and request of the said B. and with his consent,

And

And farther, it is hereby provided, that in case these presents shall be obtruded against me in any Action Pursued, or to be Pursued at the Instance of me, my Heirs or Assigns, against the Tenants or Innomesters with the Maills and Duties of the other Lands, contained in the said Apprising; and of the Lands contained in another Comprising led for the same Sum, against the said B. the principal Debitor, in any Action Pursued or to be Pursued against his Representatives, or the Representatives of any others of the Cautioners; when and in that case, the same shall be null and of none avail, force, strength nor effect, as if it had never been granted; and shall not militate against me, so binder or stop any Action or Execution against the Representatives of the principal Debitor or the other Cautioners, or against their Means, Lands or Estate: But that I may notwithstanding hereof, still use Diligence against them for their Lands, and for recovering Payment of the Sums above-mentioned; sicklike and also freely in all respects, as if these presents had never been Granted, upon which express provision the Discharge is Granted and accepted and no other wise, Registration for preservation a enary.

One having acquired Right by Adjudication or Disposition to some Lands or Disposition of the like Diligence for further Corroboration of his Rights obtains a Gift of the Ward None-entries or the like Casualties of the haill Lands and Estate that belongs to the Proprietor, from whom the Lands were Adjudged; These Gifts do affect the whole Estate, wherefore the Proprietor for certain onerous Causes, obtains from the Donator his Creditor a Discharge of the same, in so far as concerns his Estate not Adjudged, and a Declaration that they shall only be made use of, for the better securing of the Rights of the Lands Adjudged: Which Discharge and Declaration is in the form and Stile under-written.

Be it known &c, me A. forasmuch as, (here the said Rights, Disposition and Gifts were narrated in the commonform, and then follows the Cause and Motive in this Stile: And seeing, it is not our intention to make use of the foresaid Rights but only for securing us and our said Sone, in the Lands and others above-mentioned acquired by us from the said B. viz. (here the haill Lands to which the Creditor had Right and were Agreed, should remain with him, by vertue of his Rights foresaid were Narrated) wherefore we have Rights by the several Dispositions Granted

to us by the said B. with Consent of the Persons therein named: And that it is conditioned, we should Discharge Action both Personal and Real competent to us, against the said B. or any others who are Bound, or may be Lyable for the Debts above-mentioned, and against their Estate both Heritable and Moveable, by vertue of the Gifts of Ward, Non-entry, Relief and Marriage, and Adjudications above-mentioned; and to make no other use thereof: But in so far as the same may operate for our further Security of the Lands and others above-rehearsed, Disposed to us and our said Sons by _____ in manner above-express. Therefore will ye us as having Right in manner above written, to have Exonered, Quite Claim'd, and Simplified and Discharged. Likeas, we &c. the said B. and all the Representatives of his said Deceast Father, and his, and their Heirs and Executors, and all Persons that are Bound for them in the Debts above-specified, of all Personal Execution competent, or that may be competent to us or our said Sons against them, or any of them, upon the Rights above-narrated; and also of all real Execution competent, or that may be competent to us or our said Sons, against the said B. his other Lands and Estate presently pertaining, or which shall happen to pertain to him, except alienarly against the Lands and others above-mentioned, with the Pertinents Disposed to us by the said _____ For further Security whereof, it shall be lawful to us, and our said Sons, and our Heirs and Successors, notwithstanding of this present Discharge, to Apprise or Adjudge the same upon the Debts above-written; whereupon there is no Adjudication as yet, and to use what further Execution shall be necessary in order thereto, or to Bruke and Possess the same Lands and others foresaid, Disposed to us, by vertue of the Adjudication above-specified, and Rights above-mentioned Granted to us of the same, notwithstanding of this present Discharge, which we shall only be Obligated to Warrant under the conditions and quality above-mentioned, from our own and our said Sons proper Facts and Deeds, alienarly. It is always hereby Declared, that this present Discharge shall no wise bind nor prejudice the said B. as to any relief competent to him, from the Persons above-named or any of them, or their Representatives, who shall be Bound for the Debts above-express.

When Lands are Wadset or Disposed under Reversion, the Parties afterward agree, that this Right be converted into an irredeemable one, which is done by the Creditors, Purchasing from the Wadsetter a Discharge, of the Reversion:

The

The Stile whereof is as follows. Be it known *Ye me A For-*
asmuch as I by my Disposition of the date _____ *Sold Annatized*
and Disposed to B. Heritably under Reversion, all and sundrie, the
Lands and Barrony of _____ *and bound and obliged me, my Heirs and*
Successors, so Duely and Lawfully. Infeft and Sene the said B. and his
foresaids, in all and hail _____ *And made Constitute and Ordained*
Cprocurator for resigning thereof, in the Superiors hands in his fa-
vours. Reserving alwayes to me &c. (here take in the Reservations
and Clause of Reversion) And with the other Provisions, and con-
ditions mentioned and set down in the said Disposition, as the same
at more Length bears: And now for certain Causes and Consider-
ations, Wit ye me to have Exonerated Discharged and Over-given:
Likeas &c. To and in favours of the said B. The Reversion Provi-
sion, and condition of Reversion above-written, Contain'd in the said
Disposition and Right, Made and Granted by me to the said B. of
the Lands and others above-specified and Teinds thereof: And in
the Procuratory of Resignation and Infeftments following thereupon;
and of all Right of Redemption competent, or that any ways may
be competent to me, for the Redemption of the saids Lands and others
foresaids with the Pertinents, or any part thereof, and Teinds of the
same, from the said B. and his foresaids, by whatsoever manner
of way in time coming: And I do hereby will and consent, that
the Lands and others above-written and Teinds thereof, abide and
remain with the said _____ *and his foresaids, Heritably and Ir-*
redeemably butt any manner of Reversion, Redemption or Regress
whatsoever, Sicklike, and in the same manner, as if the foresaid
provision and condition of Reversion, had not been contained in the
said Disposition Procuratory of Resignation and Infeftments following
thereupon, Reserving alwayes to me the said A. and my foresaids, the
other provisions and conditions contained in the said Disposition and
Right, which shall remain unhurt thereby. So that it is Declared,
that there is nothing hereby Renounced and Discharged, but only the
Reversion, and right of Redemption: Which Right, Renounci-
ation and Discharge of the said Reversion and Right of Redemption;
I Bind and Oblige me, my Heirs and Successors, to Warrant to the
said B. and his foresaids, to be Free, Safe and Sure, frae all Facts
and Deeds done, or to be done by me or my foresaids, that may be
hurtful or prejudicial hereto in any sort. Registration.

There's a Reversion competent to the Debitor and his Heir,
 to Lands Apprysed or Adjudged, and that five or ten Years

ter leading these real Diligences; after which time all Right of Reversion is prescribed: However it is proper that the Appryser purchase the good Will of the Debtor or his Heir, which is done by granting a Renunciation of all Right he has or may pretend to the Estate Comprysed; which Renunciation and good Will in favours of a Singular Successor, is in this Stile; Be it known, &c. me A. Brother-German and apparent Heir to the deceast— with the special Advice and Consent of A. my eldest lawful Son, and me said A. for my self, and we both with one consent; Forasmuch as B. hath acquired Right to several Apprylsings, of all and hail the Lands and Barony of— with the mesuages &c. And we considering that the said B. hath given out great and considerable Sums for the acquiring of these Apprylsings and other real Diligences that affected the said Estate, which are far above the real Value of the same; As also, considering that the said B. is our near Kinsman, being by his Grand-Mother descended of the Family of A. and did after the Purchasing of all the saids Debts and Diligences, still allow to the said— a freedom for his Person, and did not trouble him with Caption, And that it is more kindly and natural that the said B. and his forefaids, brunk and enjoy the said Estate of B. then a Stranger, it being absolutely impossible for us, or either of us, to Redeem the saids Diligences the they were under Reversion, the Debts whereupon they proceed, far exceeding the Value thereof, so that we can neither possess the same nor we part thereof our selves, nor get any benefite by quating our kindnes to the Reversion thereof: Therefore wit ye us both with one Consent to have given and granted, as we by these presents Renounce to, and in favour of the said B. and his Heirs and Assignes, mentioned, in the foresaids Securites, all Kindnes and Tiele whatsoever, that we, or either of us, or our Heirs or Posterity, may have to the foresaid Estate of B. and Back-bond above-mentioned; and we are content that the same be possess by him, and his Heirs, and their Tenants peaceably in all time coming, and we Renounce the same to him, with our Blessing, and Benison, and good Will, for now and ever; And we bind and oblige us jointly and severally, our Heirs, Successors and Executors, never to trouble nor molest him nor his Tenants, nor Carriers, in the peaceable Possession and Enjoying thereof, for now and ever; nor any ways quarrel or impugn the Rights and Diligences acquired, or to be acquired by him: And we declare that we look upon him, and desire that he be holden and esteemed in

at

in all time coming, a heretable Proprietor of the saids Lands and Barony, and we wish that the same may be bruik'd by him and his foresaids, as their own proper Heretage, as their pleasure, perpetually, in all time coming; And we Renounce and give over any Right or Pretension that we, or our foresaids have, or may have, or claim thereto, or to the said Back-bond, perpetually in all time coming. Follows a Resignation ad perpetuam remanentiam.

A Discharge of an Obligement of Warrandice in a Contract, whereby the Party now Discharged, was bound to relieve the Party discharging of all publick Burdens, due to the Minister, out of certain Lands Dispon'd, and that for Years preceeding, and in time coming.

BE it known, &c. me A. Heir by Progress to the deceased A. my Grand-Father, to whom and in whose favours the Procuratory of Resignation after-mentioned, is made and granted: Forasmuch as, the Deceased B. by a Procuratory of Resignation, Subscribed with his hand of the date the _____ day of _____ bound and obliged him, his Heirs, and Successors to have made due and lawful Resignation of all and bail the Town and Lands of _____ with the Manner-place, &c. Together with the Tithes thereof, and with the Right and Privilege of free Barony, free Regality, Chappel and Chancellery, within the bail bounds of the saids Lands, or any part thereof, with the Right and Immunity of Exemption of the said _____ his Heirs & Assigns underwritten from all Taxations, States-Stents, Contributions, and other Burdens and Impositions whatsoever, and from all Jurisdiction, Ordinar and Extraordinar, and from all Compearance before any Judge or Judges whatsoever, within this Realm; submitting them to his Majesty, and Lords of his Majesty's Secres Council, and Session allowarly; and with the Exemption of the Tennents and Possessors of the saids Lands, from all Compearance before whatsoever Judge or Judges, Criminal or Civil, Spiritual or Temporal, except before the Lords of his Majesty's Secres Council, and Session; Discharging likewise all other Judges, from all Calling or Pursuing of the said deceased A. and his foresaids, and of their Offices in that part for ever; and with the Right and Privilege to Buy and Sell within all parts of this Realm, without payment of several Customs, conform to the Tenor of the Infesment, granted to the said B. and his Predecessors thereupon. In the hands of our Sovereign Lord, in favours, and for new Infesment of the same, to be made, given and granted, to the said A. his Heirs

Heirs and Assignees whatsoever. Herevntably to be holden of our said Sovereign Lord, for the Yearly payment of the Duties respective under-written, viz. for the Lands respective above-specified, with the Salmond-Fishing, Woods, Privileges and Pertinents thereof, the Sum of 26 lb. 8d. Scots Money, at Whitesunday and Martinmas, by equal portions, in name of Feu-Farm, and that for relieving of the said B. his Heirs and Successors, of that part of the Feuduty of 500 Merks Money foresaid, then addebted by him to his Majesty, for the Lands, Lordship, and Barony of ——— whereof the Barony of ——— is part and pertinent by Annexation, conform to the Infeftments granted to the said B. and his Predecessors thereupon, without doubling of the Feu-mail, at the Entry of the Heirs or Successors of the said A. and also the said A. and his foresaids, paying Yearly for all and sundry the Teind-shaves, of the Lands above-specified, with their Pertinents; To the Ministers to be lawfully Provided, Admitted, and actually serving the Cure at the Kirk of M. for the time the Sum of 4 Merks Money above-written, at the Term of Martinmas assenarly, and that for all other Duty, Exaction, Service or Burden, that may be asked by whatsoever other Person or Persons, furth of the Lands, Tiend-shaves, and others above-written, in all time thereafter; and the said B. granted an Procuratory of Resignation to the effect above-mentioned: And which Resignation and Infeftment to follow thereupon, and all and sundry the Lands, Fishing, Teind-shaves, and others above-specified, with their Privileges and Pertinents above-mentioned, the said B. bound and obliged him, his Heirs and Successors whatsoever, to Warrant, Acquite and Defend, to the said A. and his foresaids, from all Fails and Deeds done by the said B. and umquhile ——— his Good-fires Brother, and to have been done by the said B. granter of the said Procuratory, his Heirs and Successors, in any time then bygone, and to come: And also, he bound and obliged him, and his foresaids, to Warrant that the Infeftment above-written was made and granted, butt any diminution of the Rental of the Lands, and others above-specified; and from all Action that might be pursued by his Highness or his Successors, or any other Person or Persons whatsoever, for the eviction of the saids Lands, and others foresaid, or any part thereof, throw the diminution of the Rental of the same; And likewise, the said B. bound and obliged him, and his foresaids, to Warrant and Relieve the said D. and his foresaids, at the hands of the Minister of the said Kirk of M. then present, and

to come, and others having the Right and Power; and from all other Duty and Exaction whatsoever, that they may claim for the Tensd-shaves above-specified, except allenary the said Yearly Duty of 4 Merks Money above-written, at the Term above-exprest: With this Provision, that the Limitation and Restriction of the said Warrandice, in manner above-specified, should no ways be hurtful or prejudicial to the Clauses of Warrandice, contain'd in the old Infeffments, granted to the Authors and Predecessors of the said A. of the Lands and others above-specified, by the Lords of St. John, and Preceptors of Torphichan, as the foresaid Procuratory of Resignation more fully proports. Likeas, upon the 13 Day of March 1617 Years, there was a Decreet of Suspension pronounced by the Lords of Council and Session, at the instance of the said D. and &c. whereby the saids Lords Decerned and Ordained the said C. for himself, and taking burden upon him for J. C. his eldest Son and appear- and Heir, and as Father, Tutor and Administrator to him, and the said C. for himself, their Heirs, Executors and Successors, to pay and deliver Yearly, and ilk Year in all time thereafter to the said ———— and ———— their Heirs, Executors or Assigneys, the Sum of 50 lib. Money of this Realm, upon the first Day of April Yearly in all time thereafter, the first Terms payment thereof to begin upon the first Day of April 1617, and that in full Contentation, compleat Payment, and Satisfaction of the Warrandice, contain'd in the said Procuratory of Resignation, granted by the said C. to the fore-named Persons, aient their relief of the said Ministers Stipend at M. then present, and to come; With this special Provision and Condition, that if the said C. his Son, and their foresaids, contented and paid Yearly, and ilk Year, in all time thereafter, to the said ———— and ———— and their foresaids, the Sum of 50 Merks Scots, or to any other having Power to receive the same, within the Towns of Edinburgh or Leith, (which with consent of the saids Parties were places design'd for that effect) in the Month of ———— before the rising of the Session in the said Month, and that upon the Requisition of eight Days, which was to have been lawfully made by the saids ———— and ———— and their foresaids, to the said C. his said Son, and their foresaids: In that case the said C. his said Son, and foresaids, to be free of the said Sum of 50 lib. and no other- wayes: The first Years payment of the said Sum of 50 Merks, to begin in the Month of ———— 1617, which was for the Crop 1616, for which Sum of 50 Merks for the said Crop 1616, the saids Lords
De-

Decerned the said C. his said Sons and their forsaids, to Pay the same to W. D. Advocate, in name of the saids _____ and _____ and sikklike Tearly thereafter, during the said W. D. his abiding in Edinburgh, and so long as he should have Commission to Receive the same, and after him to any others having their power: And therefore, the saids Lords of Council and Session of consent of the said _____ for himself, and taking burden upon him for the other Persons above-written, and of the said W. D. Suspended Simpliciter the Letters of Horning, raised by them against the said C. so far as concerned the said Sum of 100 merks, as that part of the said Sum of 300 merks Modified Tearly for the said Minister at the Kirk of M. his Strigend; and that for all time then bygone, and in time coming: And decerned the same haill Effect, and Execution thereof to cease in time thereafter. And which Decreet was Transferred by the Lords of Council and Session at the Instance of &c. Sone and Heir Served and Retoured to the said Unquibile _____ the saids _____ and _____ Affiis against the then Lord T _____ a Sone and Heir to the said C. his Father passiv upon the 20 July 1624. As the said Decreet of Transferring more fully declares: Likeas, I the said A. of &c. by my Discharge of the date the 27 Day of February 1669, did Exoner, Quise Claim and Simpliciter Discharge W _____ now Lord T _____ his Heirs and Successors, of my just and equal third part of the said Sum of 50 merks, contained in the said Decreet, recovered against his Grand Father, and that for all Tears and Terms preceeding Whittsunday, in the Tear 1669, and of the said Decreet itself, with all that had followed, or might follow upon the same, in so far as might or could be extended to my third part of the said 50 merks for the Tears above-specified, thereby Discharged as in the foresaid Discharge at more length is exprest: And in like manner, upon the 10th Day of March 1686: I a Heir Served and Retoured to the Deceast A. my Father who was heir Served and Retoured to the said Unquibile A. his Father and my Grand Father, obtained an Decreet before the Lords of Council and Session against B. now of _____ a Heir Served and Retoured to the said Deceast B. his Grand Father, whereby the saids Lords of Council and Session Found and Declared, that in respect of the speccail Clause of Warrantice above-mentioned, that the said B. was lyable to make Payment to me of an Boll Three Firlots and an Lippie of Beer, and of 3 Bolls 2 Firlots and 3 Lippies of Meall, and of the Sum of 45 lib. 10 sh. 6 d. of Silver Strigend, with deduction of the said 4 merks, and that from the

the Years 1664, to the Year 1680 inclusive, and thereafter. And the saids Lords Found and Declared, that my proportion of the Ministers Stipend of M. is an Boll 3 Firlots, an Lippie, and 3 4th parts of an Lippy of Beer, and three Bolls 2 Firlots 3 Lippies and an half Lippy, and 2 ninth parts of an 4th part of an Lippy of Meal, and of the Sum of 48 lib. 3 sh. 10 d. and an half Penny, and an ninth part of 6 Farthings, with the ninth part of an Penny, which the saids Lords Found and Declared, I had constantly Payed to the Minister of M. And in like manner, the saids Lords modified the Sum of 4 lib. 3 sh. 4 d. for each Boll of Beer and Meal over head, for all Years then bygone and in time coming. And Decerned and Ordained the said B. Heir Served and Retoured to _____ his Father and Oye, and Heir by Proquest Served and Retoured to the said Deceast _____ to make Payment to me of the Sum of 21 lib. 1 sh. 8 d. as the price of the said 1 Boll 3 firlots and 1 lippie of Beer and of 3 Bolls 2 firlots 3 lippies of Meal at 4 lib. 3 sh. 4 d. the Boll: being 5 Bolls 1 Firlot and 1 Peck, and that Yearly, for the Year of God 1664, and hdiil subsequent Years, till the Year 1680: extending the Prices of the said Victual, to the Sum of 376 lib: 5 sh: 4 d: Scots Money: And also to make Payment to me of the Sum of 45 lib: 10 sh: 6 d: of Silver Stipend payable, and payed by me to the said Minister of M. by and attour the 4 merks, and that particularly the said Years 1664, and subsequent Years, till the foresaid Year 1680 inclusive, extending the said Silver Stipend during that space, to the Sum of 773 lib: 18 sh: 6 d. and also extending the saids prices of the Victual and Silver Stipend Duty the space foresaid, to the Sum of 1150 lib. 3 sh. 10 d. And also the saids Lords Decerned and Ordained the said B. to Warrants, Relieve and Skaitbles Keep me at the hand of the said Minister of M. present and to come, of the said Stipend Victual and Money payable by me to them, except the said 4 merks Yearly, or otherways to make Payment to me of the Sum of 32 lib. 2 sh. 8 d. as the price of the said 1 Boll 3 Firlots and 1 Lippy of Beer, and of 3 Bolls 2 Firlots, and 3 Lippies of Meal, being 5 Bolls 1 Firlot and 1 Peck of Victual at 4 lib. 3 sh. 4 d. the Boll: And likewise, to make payment of the Sum of 45 lib: 10 sh: 6 d. of Stipend, by and attour the said 4 merks, and that Yearly, since the said Year 1680, and in time coming, ay and while I hereliened of the same, as the said Decreet more fully imports: And now seeing that the said B. hath made payment to me of the Sum of _____

for granting of the Discharge after-mentioned; wherein I told me well content and satisfied: Therefore witt ye me so have recommended, &c. the said B. his Heirs and Executors and all others the Representatives of his said Deceased Grand-Father, of that part of the clause of Warrantice above-mentioned, whereby the said B. was Obligated to Relieve the said A. my Grand-Father and his Heirs, at the hands of the Minister of M. then present, and to come, and others having the Right and Power, from all other Duty and Exaction whatsoever, that they might claim from the Twind Sheaves above-specified. Except allenary the said Duty of 4 merks, and that not only for all evasions that are bypast, but for all that may hereafter happen by supervenient Laws or otherwise, and of the Decree above-mentioned, obtained at the Instance of my said Grand-Father, in the Year 1617, and of the Decree of Transferring thereof, likewise obtained by him in the foresaid Year 1624, and of the other Decree above-written, obtained at my Instance, against the said B. in the Year 1686. And of all Action and Execution competent, or that may be competent to me, my Heirs or Assignes, against the said B. his Heirs and Successors, upon the clause of Warrantice above-mentioned; in relation of the Twind Sheaves of the Lands and others Disposed by his Grand-Father to my Grand-Father, or by vertue of the Decrees above-specified, or any of them, for now and ever. Which Discharge above-written, I Bind and Oblige me, my Heirs and Successors, to Warrant to be to the said B. and his forefairs, and to all the Representatives of his said Grand-Father, an sufficient Exoneration anent the Premises at all hands, and against all deadly. Likewise, I have delivered up to him an Extract of the said Decree of Transferring in the Year 1624, with the Extract of the Decree above-mentioned, obtained at my own Instance, to be Keaped or Cancelled by him at his pleasure, &c. Registration.

The Stile of a General and Mutual Discharge betwixt two Parties.

AT Edinburgh the — Day of — Years, clear Compt and Reckoning being made, betwixt A: on the one part, and B: and — his Spouse on the other part, anent all Sums of Money, Debts, Compt, Reckonings and others whatsoever, which any of them may ask or crave from others, for themselves, or as Representing whatsoever Person or Persons by Contract, Bond, minate of Con-

chart, Decrees, missive Letters, Compts or whatsoever other man-
 ner of way, Right or Title, for whatsoever cause or occasion by-
 gone preceeding the Date hereof. It is found, that they are com-
 pletly Satisfied and Payed ilk one of them of others, and that they
 have fulfilled o others all Bonds, Obligations, Contracts, Compts
 and others Granted by any of them to others, and which any of them
 may crave of others, by vertue of whatsoever Right, or for whatsom-
 ever cause or occasion bygone, preceeding the Day and Date hereof.
 And therefore, the said A. by these presents, Exoneris, Quide
 Claims, and Simpliciter Discharges the said B. and his said Spouse,
 their Heirs, Executors, and all others whom it effairs, of all Sums of
 Money, Debts, Compts, Reckenings, Obligements, and others what-
 semever, which be for himself, or as having Right, from or Repre-
 senting whatsoever Person or Persons can ask or crave of the said B.
 and his said Spouse, or their above-specified, by Bonds, Contract, or
 whatsoever other manner of way Right or Title, for whatsoever
 cause or occasion bygone, preceeding the Date hereof; And of all
 Writs made thereupon, and of all Action, Instance and Execution
 competent, or that may be competent to them, by vertue of the samen,
 with all that has followed, or may follow thereupon, for now and ever.
 Likas, the said B. for himself, and taking burden upon him for
 the said — his Spouse, and she for her self, with his consent;
 And they both with one consent, by these presents Exoneris (verba-
 tim, as on A's part.) As also, both the saids parties Declare, that
 this their general Discharge shall be als sufficient ilk one of them to
 others, as if the samen were special and particular, whereanont they
 for them and their above-mentioned, hereby disponce, renouncing all
 exceptions of the Law that can be pyponed or alledged in the contra-
 ry. And in like manner, the said A. Binds and Obliges him, his
 Heirs, Sucessors and Executors, to warrant this Discharge above-
 writes, to be Valid Good, and sufficient to the said B. his said
 Spouse, and their above-specified at all hands, and against all dead-
 ly as Law will; And likewise, the said B. for himself, and taking
 burden upon him for the said — his Spouse, and she for her self
 with his consent; And they both with one consent, Bind and Oblige
 them Conjunctly and Severally, their Heirs, Sucessors and Execu-
 tors, to Warrant their Discharge above-rehearsd, to be Good, Valid
 and sufficient to the said A. and his forefairs, at all hands, and a-
 gainst all deadly. It is always hereby provided and declared,
 That all Discharges formerly Subscribed, and Delivered by any of

the fore-named Persons, to others shall no ways be hurt nor prejudged by this present Discharge, but shall stand Valid and Effectual, notwithstanding thereof. Registration for preservation, and Letters if need bees.

After the close of a Plea, which ended in a Transaction, a mutual general Discharge was in a more brief Form, thus,

AT _____ &c. day of _____ &c. Years, It is agreed betwixt A. on the one part, and B. on the other part, That they shall grant mutual Discharges to each others in manner following, To witt, the said A. for himself, and as having Right from _____ or any of them, by these presents Exoner, quite Claims, and simpliciter Discharges, the said B. his Heirs and Executors, of all Debts and Sums of Money, Compts, Reckonings, and every other thing whatsoever, that he can Ask, Claim, or Crave, of the said B. or lay to his Charge, for whatsoever cause or occasion bygone, preceeding the date hereof, dispensing with the Generality, and admitting the same to be a valid and sufficient, as if every particular were specially mentioned and expressed; declaring nevertheless, that this Discharge shall not prejudice the Disposition and Assignment, of this date, granted by the said A. to the said B. And on the other part, the said B. Exoner, quite Claims, &c. verbatim as on A's part, And both Parties bind and oblige themselves hinc inde to others, to warrant this present Discharge to one another, to be good and sufficient Exonerations anent the Premisses, at all hands, and against all deadly. Registration as above.

When a Cautioner or Co-principal payes the Debt, the Creditor gives him not only a Discharge of the Bond, in so far as he stands bound, but also an Assignment to the full Debt, and Bond against the Principal, or to the Bond in so far as the other Co-principal is bound to relieve him. Which Discharge and Assignment is in this Form.

He is known, &c. Forasmuch as (here narrate the Bond, with the Clause of Relief subjoined to the Bond, or the Bond of Relief apart, all in common Form) And seeing the said D. hath made payment to me, &c. Therefore witt ye me, not only to have Exonerred, &c. the said D. Cautioner above-named, of the Bond above-mentioned, and baill Sums of Money, Principal, Annualrent, and liquidate Expences, above-specified, contained therein,

in, and of all that has followed or may follow thereupon; But also to have made and Constituted, &c. (here follows the Style of an ordinary Assignment, as in pag. 23 and 24.) *surrogating and substituting the said D. in my full Right and place of the Premises, and that in so far alienably as the said Bond and Diligence to be done thereupon, may be extended against the said B. principal Debtor, but noways against the said Cautioner (or either of them) who is Discharged in manner above-written, with power, &c. Which Discharge and Assignment, I bind &c. to warrant in manner following, viz. The foresaid Discharge at all hands, and against all dead-ly, and the said Assignment, from all Facts and Deeds done and to be done prejudicial hereto, alienably, to witt, That I have not made nor granted, &c. any Assignment, or other Right or Discharge, except the Discharge above-written, that may be hurtful, &c. (as in an ordinary Assignment.)*

The restrictive Clause, and that in so far alienably, &c. is by some Writers, placed immediately before the Clause, *surrogating and substituting, &c.*

In place of the Exception of the Discharge out of the Warrantice of the Assignment, some put, after the ordinary and simple Clause of Warrantice, a Declaration, thus, *Declaring nevertheless, that my granting both a Discharge and Assignment, shall in noways infer double Warrantice against me.*

If the payer be a Co-principal, and there be no written Instruction of Relief, in whole or part of the Debt, the Assignment is thus, — *Cessioners and Assignees, in and to so much of the said principal Sum of — and Annualrents thereof above-mentioned, both bygone and in time coming, as the said C. stands obliged to relieve him of, by the Bond above-mentioned, and to a proportional part of the liquidate Expences thereof above-specified effect- and thereto, and in and to the foresaid Bond, &c. in so far only as the same may be extended against the said C. for the Sums hereby Assigned, and no further. Surrogating, &c.*

Of Assignations Compound.

AN Assignment being a Writ of Conveyance, appoint-
ing and setting over a Right of a moveable Subject,

We have formerly treated of simple Assignations, it remains now that we account for Compound ones.

If personal Diligence, as Horning and Caption, be rais'd on the Bond, or real Diligence, as Arrestment and Furthcoming, be us'd by the Creditor, these respective Diligences must be narrated; and it is this chiefly, which gives to this Conveyance the denomination of a compound Writ.

Assignations are to be considered in three several Forms, from which the variety proceeds; and that is with respect to the Granter, 1^{stly}. To the Receiver. And 2^{ndly}. With respect to the Subject-Matter convey'd. If the Assignation is to be granted by the Creditor himself, it is thus, — *Be it known to all Men by these presents, me A. Forasmuch as (here narrate the registred Bond, Horning, Caption, Arrestment, Process or Decreet of Furthcoming, or the like moveable Diligence, in common Form, and thereafter subsume). And now seeing B. hath made payment to me of a certain Sum of Money, &c. Therefore wit ye me to have made and constitute, as I by these presents make and constitute the said B. his Heirs and Donators, my very lawful and irrevocable Cessners and Assigners, in and to &c. as in the Stile of a simple Assignation, pag. 22. And as to the Diligence you say, and in and to the foresaid Bond it self, Decreet of Registration, interpositio abetio, Letters of Horning rais'd thereupon, and Executions thereof, with the Letters of Caption following upon the same. (and so forth as to any other Diligence) Surrogating, &c. With power, &c. And if need be to cause put the foresaid Letters of Horning and Caption at further Execution, &c. And to use all manner of legal Diligence, &c. Or thus, And to prosecute the foresaid Arrestment, and Process of furthcoming rais'd thereon. The Warrantice is the same as in a simple Assignation. Liken, I have instantly delivered, &c. here set down briefly the Bond, and Inventar of the Diligence following thereon; or which is shorter, say, Liken, I have instantly delivered to the said B. the haill Writs above narrated, to be keep'd, &c.*

When the Assignation is granted by the Heir or Executor of the original Creditor, there's no difference in the body of Assignation, from what is above set down, save only the Granter has the additional Designation of Heir or Executor, as is observed in the Stile of Discharges, pag.

If the Assignment be made by a Factor, he must have a special Power and express Warrant by his Factorie, to make conveyance of his Constituents Effects; for regularly such Power is not imply'd in Commissions and Mandats. The form of which is thus. *Be it known, &c. me A. a Factor for B. specially constitute with Power, to grant Assignations and other Conveyances, in manner under-written; Forasmuch as, (here narrate the Bond and such Diligence as was done by the Constituent, and after which, mention the Factorie, and specially that power and faculty to Assign, and next, the Diligence done by the Factor, and then subsume) And now seeing that C. hath made payment to me a Factor, for and in name and behalf of the said B, of the Sum of ——— Therefore wit ye me, as Factor foresaid, and by vertue of the Power and Faculty given to me hereanent, in manner above-narrated, to have made and constitute, &c.*

Tho Assignations by Tutors, in name of their Pupil be not sufficient and valid Rights *ante redditas rationes*, yet these may and are in use to be granted: The Stile whereof in what concerns the way of naming the Granter of the Write, is much of the Tenor with that in Discharges made by a Tutor in name and behalf of his Pupil, which have been treated of already.

The same may be said of Assignations by Minors, with consent of their Curators, tho in effect these are not so easily reduced, nor is the Minor without good ground reponed against them.

When the Assignment is granted by a Wife with consent of her Husband, the Granters are express'd as is done in the Discharges granted by them: However, to illustrate this part of compound Assignations, take the following Example of an Assignment to a Bond of Provision, by a Wife with consent of her Husband. *Be it known, me A. youngest Lawfull Daughter to the deceased B. with advice and consent of C. my Husband for his Interest, and me the said C. for my self, and for all Rights that I have or can pretend to the Sum of Money aftermentioned, by Assignment, Disposition, jure Mariti, or otherways, with consent of, and taking burden upon me for my said Spouse, and we both with one consent and assent, Forasmuch as, the said deceased B. by his Bond of Provision, of the date ——— bound and obliged him, his Heire, Successors and Executors, to have made*

made payment to the said A. of the Sum of 20000 Merks Scots Money at my Age of 16 Years: And in case it should happen, any Heirs Male, of Tailzie or provision, not descended of the said B. his own Body, to Succeed to him, or to D. his Son, in the Lands and Barony of R. not being descended of his own Body as said is; To pay to me the said A. the Sum of 10000 Merks more at the time after-specified which Sums respective above-mentioned are appointed to be in full contentation and satisfaction to me, of all Bairns part of Gear, natural Portion, Goods, Gear, Debts, and all other Benefite, that might pertain and besal to me, or that I might Ask or Crave, by or through the Decease of the said B. my Father, and ——— his Spouse, or either of them, and of all former provisions made by him to me, as the foresaid Bond of provision more fully contains. And seeing, that the said D. my Brother Died without Heirs Male of his own Body, and that my Brother E. who is, and has been Dumb and Deaff since his Birth, is now come to a considerable Age and un-Married; So that the Estate will Fall, Pertain and Descend to the Heirs Male of my Brother D. according to the Bond of Tailzie made by my Father thereof, and I will become thereby to have Right to the said Sum of 10000 Merks. As also seeing, that F. hath made payment to me &c. Therefore with ye us both with one consent, and me the said C. taking burden upon me for my said Spouse as said is, to have Made, Constitute and Ordained, and by these presents, Make, Constitute and Ordain the said F. his Heirs and Donators, our very Lawful and Irrevocable Cessioners and Assignees, in and to the foresaid Sum of 10000 Merks of additional Portion granted to me the said A. in the case above-specified, and to the Annualrents thereof, if any shall be found due since the Decease of the said D. and in time coming, during the not payment of the Same, and in and to the foresaid Bond of Provision haill Clauses and Obligements thereof. In so far as, the same is conceived, in favours of me the said A. for payment of the said Sum of 10000 Merks; and all other Writs granted, or which may be interpreted in my favours concerning the same: Surrogating &c. and to grant Discharges, &c. And if need bees, to Pursue the Heirs Male of the said Deceast B. and D. his Son thereanent, and use all manner of legal Diligence for recovering payment thereof, with Warrandice from Fact and Deed, excepting always from the foresaid Warrandice any Discharge granted by me the said A. and my said Husband, or either of us to ——— of the first 20000 Merks above-mentioned, and of my part of the Executry of the said Deceast B. my Father;

Father, in so far as the same may infer double warrantice against me; And because the foresaid Bond of Provision is Registered and already delivered to the said T. Therefore we do hereby declare, that he, or his foresaid, may use or dispose thereupon, as their own proper Evident; in so far as the same is conceived in favours of me the said A. as their pleasure in time coming.

Assignations are granted to one for himself, and his own behoof, which is expressed as in the preceeding Examples: Or, they're given to one in name and behalf of another; in which case, in the subsumption you say, *And seeing B. a Tutor for, and in name and behalf of C. hath made payment, &c.* Or thus, *B. a Tutor or Curator for C. hath in name and behalf of his Pupil or Minor, made payment, &c.* (and the like as discretion will direct) *Therefore witt ye me, to have made and constituted &c. the said C. his Heirs and Donators &c.* So that the Right is given directly in the name of the Constituent or Pupil, and no mention made of the Tutor or Factor.

When the Right is in favour of one in Liferent, and another in Fee; as a Husband takes a Right of a Sum and Bond to himself and his Wife, and the longestest liver of them two in Liferent, and to the Children, or to a Child *nominatim* in Fee; the subsumption imports payment of Money by the Husband for himself, and in name of his Wife and Child, and the Assignation is made according to the Destination of the Party, as may be seen in a Bond of borrowed Money; in this case, the subsumption which begins with these words, *And now seeing*, is various, according to the Cause of granting the Right, which is either Onerous or Gratuitous. The manner of expressing these Causes may be known from what is said already concerning simple Assignations, and from the Subsumptions there.

The Stile of Assignations vary much, according to the diversity of the Matter conveyed, and circumstances thereof; each Subject having a peculiar way in the enumerating and describing thereof. The order in Assignations is the same with that in Discharges; first, To mention the liquid Sum, or thing Assign'd; and next, The Right or Deed, by which it is due; as may be discerned from the Examples, before and hereafter set down, tho' in sundry Instances, I have observed this order transgressed.

The Subject-Matter, is either General, as all Goods and Gear; and the Right thereof is called a general Assignment and Disposition: Or it is Special, as a liquid Sum and Debt; for security whereof the Cedent has Right, either to Moveables or Immoveables, and this Right is either Voluntary or Legal; or without respect to any foregoing Debt, the Assignment, is of Goods moveable directly, as an Assignment to Corns, Cattle, Household-pleishing, and the like; which Right is ordinarily term'd a Disposition, tho the one Name and the other are promiscuously used.

The proper Characteristick of an Assignment, is the having the words, *Make, Constitute and Ordain, B. my very lawful Cessioners and Assignees;* that of a Disposition is the words *Sell and Assign, or Sell and Dispose.* But this is not universal, for I have notic'd them used promiscuously; and both these modes of Expression are in Translations, which differ not, from an Assignment, but in this, that the Assignee conveys.

When the Cedent is in the Bond, design'd otherways than by the Title or Designation, that he now makes use of, to make a connexion, both his old and new Designation must be mentioned, thus, *A. of B. designed in the Bond underwritten, A. of C. or the like.*

Before a Person forfaulted can acquire any Right, he must have a Remission; and in the Right and Conveyance it may be made mention of, thus, *And now seeing that B. hath obtain'd Remission and Rehabilitation from his sacred Majesty, and hath made payment of a certain Sum of Money, &c.*

We first treat of special Assignations, or of Rights to a particular Subject; the Style of an Assignment to a Debt or Sum of Money, due by a moveable Bond, which is a voluntary Right, may be known from what is above set down, only it is to be notic'd, That if two or more distinct Bonds are to be Assigned, the Style of the Assignment, in the first place mentions the Sums in the first Bond, and next, the Sums in the second Bond, and so forth with the rest; and thereafter is subjoin'd, In and to the foresaid two (three or more) Bonds themselves, with all that has followed or may follow thereupon.

An Assignment to a Debt, secur'd by a legal Diligence, or liquid by a personal Decreet, is thus,

BE it known, &c. me A. Forasmuch as upon—— I obtained an Decreet before—— against B. decerning and ordaining him to make payment to me of the Sum of &c. which was resting by him to the deceast—— and now to me as Executer Dative, decerned and confirmed to him, and that for diverse Reasons and Causes, specified in the said Decreet, as the same and Letters of Horning raised thereupon at more length proports: And, seeing that I am resting to—— the Sum of &c. with certain Annualrents and Expences, conform to a Bond granted by me as Principal, and—— as Cautioner for me to him thereupon; and that I am most willing that the said &c. should be paid of the said principal Sum and Annualrents thereof resting unpaid, and thereby the said &c. relieved of his said Cautionry: Therefore witt ye me, to have made, constitute and ordained, And by these presents make, &c. the said &c. his Heirs and Donators, under the reservation and declaration always after-mentioned, my very lawful Assigneys, in and to the fore-said Decreet, Sums, above-specified therein contained, Letters of Horning and others raised, or to be raised thereupon, Executions, Indorsations and Registrations thereof, with all that has followed or may follow upon the same; and to all Action, Instance or Execution competent, or that may be competent by vertue thereof, Surrogating and Substituting by these presents, the said &c. under the reservations and declarations always after-mentioned, in my full Right, Title, and place of the Premisses for ever: With full power to the said &c. and his above-mentioned, to ask &c. and to call and pursue therefore, either in my Name or in their own, as they shall think expedient; by putting of the said Decreet and Letters raised thereupon to Execution, or otherways as accords of the Law, and to give Acquittances and Discharges thereof, transact &c. and generally &c. which Assignment &c. to warrant &c. Likeas, I have instantly herewith delivered &c. With this provision and declaration always, That how soon the said &c. or his foresaids shall obtain payment of the Sums above-mentioned; hereby assigned, that immediately thereafter they shall be holden to make payment to the said &c. or his above-mentioned, and purchase, procure, repeat and deliver to me, and my foresaids, the Bond granted to the said &c. with a sufficient Discharge thereof, to be kept and

*used by me and my foresaids at our pleasure, in all time coming,
Registration &c.*

A Bond by the Assignee to the Cedent, mentioning the end for which the Assignment is Granted, and obliging himself according to the Tenor of the above-written Provision and Declaration, is more for the Cedents Security and Interest, than a Declaration in the Assignment, which is not in the keeping, or at the comand of the Cedent.

Assignations to Decrets for Payment of Money, are in the same order and Style, with these of Bonds of borrowed Money, to witt, the Sums are always first mentioned and Assign'd, and then the Decrets.

In the Assignment of an Irretable Bond, which contains a Clause of Infeftment, two Cases are to be considered; The first is, if the Cedent be not Infeft, in which Case the Assignment is in the Form and Style of an Assignment to a movable Bond: With this difference, that the Bond is narrated, and the Proctory of Resignation and Precept of Seisine are expressly Assigned, and the Power is to Purchase and Procure himself Infeft and Seised in the foresaid Annualrent, by virtue of the Procuratory of Resignation, or Precept of Seisine contained in the foresaid Bond, and the present Assignment of the same; And in the power to Grant Discharges, you must add, power to Grant Renunciations also.

The next case is If the Cedent is Infeft, either upon the Precept of Seisine in the Bond, or upon a Charter of Resignation, then the Right is in the Style of a Disposition of Lands, to which Title, we refer you for a conveyance of an Infeftment of Annualrent.

If real Diligence against Lands by Adjudication, or the like, has been deduc'd, for security of the Debt, in the conveyance, the two former cases are to be considered; for if no Infeftment has followed in the Adjudication, the Assignment and Disposition is thus,

B *B. in forma &c. me A. fit assignatus* (here narrate the Bond in common form, after which followed a Decreet of Adjudication; there were also narrated an Arrestment, Decreet of forthcoming, Horning, Suspension, and Decreet of Suspension.) And now seeing that B. hath made Payment to me, of a certain Sum
of

of Money, equivalent to the Summ thereby Assign'd, for Granting the
 Assignment underwritten: Wherewith I hold me well contented and
 satisfied, and Exoner, quito Clame, and simple Discharge him, his
 Heirs and Executors of the same, Renouncing all exceptions in the
 contrary for ever. Therefore witt ye me, to have Sold, Anailized
 and Disposed; Likas &c. to the said B. his Heirs and Assignys
 whatsoever, all and hault the foresaids Lands of ——— with Houses
 &c. lying and bounded in manner above-mentioned, together with
 all Right, Title, Interest, Claim of Right, Property and Possession,
 Petitor and Possessor, that I, my Heirs or Assignys, have, or any
 ways may have, Clame, or Pretend thereto, or any part thereof in
 time coming. And farther, witt ye me to have Made and Consti-
 tuted; Likas &c. the said B. his Heirs and Donators, (excluding
 his Executors) my very lausful and irrevocable Cessioners and Assign-
 nys, in and to the foresaid Principal Sum of 2500 merks, and
 200 lib. of liquidate Expences, and to the Annualrent of the said
 principal Sum bygone, Resting unpay'd since the Term of ———
 and in time coming; during the not Payment thereof, and in and
 to the foresaid Bond, Letters of Inhibition and Arrestment raised
 thereupon, Executions thereof, and to the foresaid Decreet of Ad-
 judication; and likewise to the foresaid Decreet for making furth-
 coming, and Decrees of Multiply Poynding and preference, Letters
 of Harning and other Letters, and Diligence done thereupon; Ex-
 cutions, Underfacians, and Registrations thereof; and all that has
 followed, or may follow thereupon: Surrogating, &c. with power to
 him and his foresaids, by vertue of the said Decreet of Adjudication,
 and this my Assignment thereof, to Purchase and Procure themselves
 to be duly and lawfully Infeft, and Deased in the Lands and others
 above Disposed; and also to Ask Crave, &c. and to grant Discharges
 &c. and if need be to call and pursue therefor either in my name
 or their own, as they shall think expedient, and to use all manner of
 legal Diligence for recovering Payment thereof, Compos &c. And
 generally &c. Which Disposition and Assignment, I Bind and O-
 blige me and my foresaids, to Warrant &c. Likas, These in-
 stantly herewith delivered to him the Extract of the foresaid Bond,
 with the Letters of Inhibition and Arrestment raised thereupon, with
 Extracts of the said Decrees of Adjudication, and for making furth-
 coming, and of Preference, all to be Kept and used by him, and
 his foresaids, as their own proper Evidents at their pleasure in time

coming.

Assigning. Registration for preferential, and Letters of Homing if need be

Besides the Clauses contained in this Assignment, to a Decree of Adjudication; I have seen an Assignment to the Maills and Duties of the Lands Adjudged, of all Years since the Decree, and in time coming, I have observed; some are not in use to Dispose the Lands Adjudged, as in the case foresaid, but only the Decree: which I think, is not very regular, for a Decree of Adjudication is a legal Disposition of Lands, and other Subjects Adjudgeable; And the Adjudger, when not Infeft, must convey his Right in the same Form and Style, as one Transmits a Disposition of Lands, wherein he is not Infeft; And the Power, was, with Power to him, and his above-written, by virtue of the foresaid Decree of Adjudication, and this my Assignment thereto; To Purchase and Procure the Precepts, furth of our Sovereign Lords Chancellary, and thereby to obtain themselves duly and lawfully Infeft, and Seased in the Lands, Tiends, and others above-mentioned, and to Uplift and Receive, and if need be, Pursue for the foresaid bygone Maills and Duties.

But if the Disposer be Infeft in the Lands Adjudged, either the legal Reversion competent to the Debtor is not expir'd, and then the Disposition has a Narrative of all the Diligence, and, after the dispositive Clause, the ordinary real Clauses, as obligation to Infeft, Procuratory of Resignation, Precept of Sealine &c. are Inserted in the comen Form, as will be shoven in the Title of Dispositions. Or the legal Reversion is expir'd, and then the Disposition has no Narrative; And is like that made by an irredeemable Proprietar of Lands: of which hereafter.

Assignations and Dispositions to movable Goods, directly, that is, without being a Security, or a Corroboration of a liquid Debt, as are Rights to Corns, Cattel, Horse, Nols, Sheep, &c. are express in this manner.

BE it known &c. me A. for an certain Sum of Money Payed and Delivered to me by B. to have Sold and Assign'd, Like as I by this presents, Sell, Assign and Dispose, to, and in Favours of the said B. his Heirs, Executors or Assignays whatsoever, all and sundry my Inlight Pleinishing, Goods and Gear pertaining to me.

me, upon the ground of the Lands of ——— That is to say, 60 Sheep
ground and old, ten Oxen, ten Kine, six yeld Nols, three Horses, the
Sowing of twenty Bolls of all sorts of Corns, such as wheat, Bear,
Oats and Pees, upon the half of the samen Lands of ——— laboured
by me this Instant, Crop and Year 1707. Together with all Right
&c. Sutrogating &c. with full power to him and his forefaids,
presently to enter to the peaceable Possession of the said Horse, Nole,
Sheep, Cows, Sowing, and to use and dispose thereupon at their
pleasure; And generally &c. use and exercise concerning the Intro-
mission with the forefaid Corns, Cattell, Goods, Gear: Sicklike. And
as freely &c.

An Assignment to Household-Plenishing, is thus,

BE it known &c. me A. For the love, favour and affection, that
I have and bear to B. and for his great Diligence and constant
Pains in my Business, and for other onerous and weighty Causes mo-
ving me To have sold and disposed &c. Likeas, &c. to the said &c.
his Heirs and Executors under the reservation after-specified, my full
Insight Plenishing within my Dwelling-house in ——— conform to
an particular Inventar thereof, of the date ——— which is holden as re-
peated and expressed herein, Reserving always to me my Lifetime
Right and Portion of the forefaid Plenishing during all the days of
my lifetime, with power to the said ——— and his forefaids, presently
to take possession of the said Plenishing, and after my decease to in-
tromett with, and away take the same, and dispose thereupon at
their pleasure; And if it shall be necessary, to pursue for delivery to
them thereof, before whatsoever Judges competent, as accords of the
Law, and generally to do every other thing requisite for establishing
the Right thereof in their Person, sicklike and as freely, as I might
have done my self, before the making this present Disposition and
Assignment; Which Disposition and Assignment, I bind and ob-
lige me, my Heirs and Executors, to warrant to the said B. from
my own proper Part and Deed allenary; And for further security
thereanent, I have instantly with my own Hands at the subscribing
hereof, given possession to the said B. of the forefaid Plenishing, re-
serving only my own lifetime thereof, as is before expressed.

From the variety occasioned by the Subject-Matter as-
signed, it is observable, that the Clause which gives power to
Dispone, is various, according to the special nature of the
thing

things; since every Subject or matter of Commerce hath its proper use, and is not fit for all uses. So that the Stylift and Writer, in conveying this power of Using, must express himself in habile and proper Terms.

Thus, in an Assignment and Disposition of an Adjudication, whereupon no Infeifment has followed, beside the ordinary power to *Ask, Crave, &c.* there is a power by virtue of the said Decree of Adjudication and Assignment *sheweth to the Assigney, to purchase himself Infeif and Seased in the Lands adjudged.* And in an Assignment to Mails and Duties, given for further Security, the power, beside the common, is, *To uplift and discharge the same Mails, and to pursue the Tenents thereof, upon Decrees already recovered, or to be recovered by the Assigney, for payment thereof.*

Not only Things, but Rights, Writs, and special Clauses in them, and the Powers and Faculties competent thereby, are Assigned; and no direct mention is made of their Effect or Product. Tho, without this Fruit, which encreases our Patrimony and Estate, it is but a very barren conveyance. Such as an Assignment to Clauses in Tailzies or other Writs, whereby Sums in a certain event become Due to the Cedent; of this kind, take the following Example.

Assignment to a Tailzie; and Provisions therein; conceived in favour of the Cedent.

BE it known &c. me A. Son and Heir Served and Returned to the decess B. Forasmuchas, there was a Contract and Agreement made upon _____ betwixt the Decess A. my Grandfather, and the said B. then deceased &c. with consent of _____ And the said _____ for themselves, with consent of my said Father and Grandfather on the one part, And C. with consent of his Curators therein named on the other part: By virtue whereof, and for the reasons Causes at length therein Express, The said C. with consent forforesaid, Bound and Obliged him, his Heirs and Successors, to make due and lawful Resignation, of all and hail the Lands and Barreny of _____ and others particularly under-written, viz. &c. All thing &c. In the hands of the King's Majesty, or his Highness's Successory, and others the said C. his immediate lawful Superiors thereof, In favour and for new Infeifment of the same, to be made and in pursuance hereof, one of quittance, discharge, quiet and

and Granted by the saids Superiors or their Successors to the said C. and his Heirs Male then lawfully to have been gotten of his own Body; which failzinge to the said B. my Father, his Heirs Male and Successors, in the Right of the Living of L. Heretably, in due and competent forms. As also the said C. with consent foresaid, did thereby Contract, Will and Ordain, that after him, all Tacks and Rights of Tinds, Parsonage and Vicarage, of the Lands, Barony and others above-written, with the Pertinents then pertaining to him, or that should be acquired by him at any time thereafter, with the Reversions of all Wadsets, Annualrents, and other Burdens being thereupon, or upon the foresaid Lands, Barony, and others above-written or any part thereof; and all Right of Redemption of the same, should pertain and belong to the saids Heirs Male lawfully to be gotten of the said C. his own Body, which failzinge to the said B. my Father, his Heirs Male, and Successors to the said Living of L. aswell as the Heretable Right of the saids Lands, Barony and others above-written, according to the said Infeftment of Tailzie and Provision above-specified to follow thereupon. And for that effect, the said C. with consent foresaid, was to Make, Constitute and Ordain his foresaid Heirs Male, and of Tailzie and Provision above-designed, to be contained in the foresaid Infeftment, his undoubted and irrevocable Cessioners and Assignees, In and to all and sundry Tacks Affedations, Assignations, Translations, Dispositions, and other Writs and Securities whatsoever, Made and Granted to his said Umquhile Father, or any other his Predecessors, or Obtained by him or them, or to have been Obtained, and Made to him thereafter of, upon, or concerning the Tinds, Parsonage and Vicarage of the saids Lands, Barony and others above-written, with the Pertinents, and to all Reversions, Contracts, Bonds, Promisses and Conditions of Reversions, Made and Granted to the said C. his said Umquhile Father, or others his Predecessors, Authors, Cedents or others, from whom he had Right for Redemption of the Lands, Barony, and others above-written, or any part thereof, or of any Wadset Annualrent, Apprying, or other burden being thereupon, to the effect, that, after the said C. his Decease, the Heirs Male then to have been gotten of his own Body, which failzinge, the said B. his Heirs Male and Successors foresaid, might succeed, and have Right to the Tinds, Parsonage and Vicarage of the Lands, Barony, and others above-specified in manner mentioned in the said Contract, whereby it is provided and declared, that it should not be Laisune to

the said C. nor his Heirs Male foresaid, neither to break the said Tailzie, nor to make upon the said Lands, Barony and others above written and Tenants thereof, no Sums of Money, except 5000 Merks. Like the said C. with consens foresaid, Bound and Obligated him, and his foresaid, neither to alter nor break the said Tailzie, nor to make no manner of Sums upon the said Living, nor the Sum foresaid. And in case it should happen, the said C. and his Heirs Male then lawfully to have been Begotten of his own Body, to Failzie, or do in the contrary, either by altering or breaking of the said Tailzie, or on taking of any more Sums of Money, nor the Sum foresaid, upon the foresaid Lands, Barony and Living of ——— Then, and in that case, the said C. and his Heirs Bound and Obligated him and them to Content and Pay to the said B. his Heirs Male and Successors, the Sum of 10000 Merks money foresaid, immediately after the said C. or his Heirs shall Controvert and do in the contrary thereof, and the said Tailzie to be Received by way of Exception or Reply, without any Declaratour till the Sum were Payed. All altering or breaking of the said Tailzie, and farther burdening of the foresaid Living, more than the Sum above written, and all Securities to be made thereunto to be null, and of none avial force nor effect, as the said Contract more fully bears. And now seeing, that ——— hath made Payment to me of an certain Sum, for Granting of the Right and Assignation under-written, wherewith &c. Therefore will ye me as Son and Heir Male foresaid, Served and Recovered to the said Deceast B. my Father, to have Made and Constituted. Like &c. the said ——— his Heirs and Donators, my very lawful Cessioners and Assignes, in and to the foresaid Contract, and hail Clauses and Obligements contained therein conceived, or that may be interpreted in my favours: And specially, butt prejudice of the generality foresaid, in and to the said Sum of 10000 Merks, and hail Annualrents and Profits thereof, if any shall be found due by Law, as well of all Tears and Terms bygone resting unpaid, as in all time coming, during the not payment thereof, and in and to all Actions and Processes intited at my Instance in the said matter, and in and to the hail Ails and Interloquitors, Minutes of Process, and Dispute if any be made thereupon, and to the Letters of Inhibition raised at my Instance in the said matter, Executions, Injunctions and Registrations thereof; and to all Action and Executions competent, or that may be competent to me thereunto: Subrogating and Substituting the said ——— in my full Right and

and Place of the Premises for ever, with Power to him or his fore-
 saids, to prosecute and follow forth all Actions already Intenced, and
 Depending as my Instance in the said matter, and to obtain Decrets
 therein, and to use all manner of legal Diligence, either at my In-
 stance or his own, as he shall think expedient, for procuring the Im-
 plement of the foresaid Contract, Compone &c. Which Righe
 and Assignment, &c. to Warrant to the said _____ and his
 forebids, from all Fairs and Deeds done by my said Decess
 Father, or to be done by my self, his or my Heirs or Ex-
 ecutors, at any time bygone, or to come prejudicial hereto altogether;
 Excepting and Reserving always, furth and from his present War-
 rantidice, any consent that was given by me to the Disposition of the
 saids Lands of &c. (Being a small part of the Lands Tail-
 ed.) with their Parsonages Granted by _____ in favour of _____
 which consent shall nowise infer nor import any Contravention of the
 present Warrantidice, but is expressly excepted therefrom. Likewis,
 I have instantly herewith delivered to the said _____ one of the
 Subscribed Doubles of the said Contract, with the Summons raised
 thereupon at my Instance, against _____ E. now of _____ eldest
 lawful Son, and Heir Male to the said Decess C. his Father, with
 the Letters of Inhibition raised thereupon, and Execution thereof,
 to be kept and used by him and his forebids, in their own proper
 Writs and Evidents, at their pleasure in time coming.

Among this sort, I may place Assignations by Tenants
 the Tacks Set to them by their Masters. Whereof the
 Forme is thus.

BE it known &c. me _____ forasmuch as &c. I have Narrate
 the Tack) and seeing B. hath made Payment to me &c.
 Therefore I have made, Constituted and Ordained &c. Assigners
 in and to the said Tack and Affidation, during the whole Years
 and Terms therein yet to run, and to all Clauses and Obligements
 therein contained, Profits and Emoluments that may arise there-
 through, and in and to all Actions &c. Surrogating &c. with power
 to the said B. to Occupy and Possess the saids Lands, with their
 own Goods, or to Set them to Tenants as they shall think most Ex-
 pedient, and to Introuce with, and Upake the Mails, Farms, Pro-
 fits and Duties thereof, during all the Years and Terms mentioned in
 the said Affidation, and yet to run. They paying the Mails and
 Duties contained in the same to the said _____ at the Terms therein
 express.

express. And also to use the said Tack and Affedation, sicklike, and as freely in all things, as I might have used the same my self, before the making of this Assignation, &c.

Assignation of a Liferent-Right.

I A. for diverse onerous Causes and Considerations moving me, by these presents, make and constitute B. my lawful Son, and his Heirs, Executors and Assignes, my very lawful, undoubted and irrevocable Cessioners and Assignes, in and to my Liferent-Right of the Sums of Money after-specified, and Annualrent thereof, whereunto I am provided during my Liferime, conform to the Bonds after-mentioned, granted by the Persons after-nominate, ilk one of them for their own parts, as is after-divided, viz. The Sum of _____ a Principal, and the Sum of _____ as liquidate Expences, contained in a Bond granted by _____ of _____ for my Liferime use allenary, and to the said _____ his Heirs, Executors or Assignes in Fee, of the date _____ (and so forth of all the rest of the Bonds,) and in and to my Liferent-Right of the ordinary Annualrent of the saids principal Sums of all Tears and Terms by-gone resting unpaid, and sicklike, of all Tears and Terms to come, during the not payment thereof, conform to the foresaids Bonds; and in and to the same Bonds, haill Clauses, &c. and to all Action, &c. Surrogating, &c. with full power &c. The other Clauses of an Assignation in common Form; Likens, I have delivered to the said B. so many of the said Bonds as I have in my custody, to be keep'd, &c.

Thus much of Assignations to particular Subjects; It remaine, that we treat of general Assignations or Rights to all the Cedents Debts and Goods whatever, without mentioning any kind; such is the Right to Moveables, in place of a Testament, in the following Example.

BE is known &c. me E. For the love, favour and affection which I have and bear to A. my eldest lawful Son, and for the better enabling him to make payment of such Debte and Sums of Money as I am presently resting, or that shall happen to be resting

by me the time of my decease, and for the defraying the Expences of my Sickness and Funerals; To have made, constitute and ordained, Likeas, I by these presents under the Provisions, Reservations and Conditions after-mentioned, make, constitute and ordain the said A. G. his Heirs and Executors, my Cessioners and Assigneys, in and to all Debts, Sums of Money, Goods, Gear, Mails and Duties of Lands, Hausses and Others, Household-plenishing, Cloaths, Woollen and Linen, and all other Furniture within my said Dwelling-house, or without the same, pertaining, or which at any time hereafter during my lifetime, and at my death shall happen to pertain, belong, or be addebted to me, and to all Bonds, Contracts, Accompts, Tickets, Decrees, Sentences, and other Writs and Evidents, granted or received by me at any time bygone, or to come during my said lifetime. And butt prejudice of the generality foresaid, in and to the Sum of ~~_____~~ addebted by ~~_____~~ conform to his Bond granted thereunto, dated ~~_____~~ and in and to (here take in the rest of the Bonds) and to the Mails and Duties resting by ~~_____~~ for his Dwelling-house in ~~_____~~ possesst by him, and pertaining to me, Surrogating and Substituting the said A. and his foresaids, under the Provisions and Reservations after-mentioned, in my full Right, and place of the Premisses; for ever; dispensing with the generality, and admitting and declaring the same to be as valid, effectual and sufficient, to all intents and purposes, as if each Debt and the baill Household-plenishing, Goods, Gear and Others, hereby assigned, were particularly and expressly herein-named and insert; Reserving always to me, my Liferent of the Sums of Money, Goods, Gear and Others, above-assigned, during all the days of my lifetime; Reserving also power and liberty to me, at any time during my lifetime, not only to uplift, discharge, assign, and otherways dispose upon, and make use of the Sums of Money and Others, particularly and generally above-mentioned; but also to affect and burden this present Assignment Sums and Others hereby assigned, with such Legacies, Gifts and Provisions, as I shall think fit to nominate and appoint in a Writ, to be subscribed with my Hand at any time hereafter in my lifetime, and falsifying such a Writ, or in case thereof, the Superplus of the Sums of Money, and Prices of the Plenishing, and other Goods and Gear above-assigned, than what payes the Expences of my Sickness and Funerals, and all other Debts if any be, shall happen to be resting at my death, to be applied by him to himself and for his use; And in case the saids Debts, Funerals and other Expences

with

with the Legacies as be contained in the said Paper a part, shall re-
 ceived the Monies hereby assigned, the said A. and his assigns
 is to be no further liable than for what he shall receive by virtue of
 this Right and Assignment, and the remainder to affect the Houses
 and Others above mentioned in the first place, before any of the Le-
 gacies or Provisions contained in the said Writ, with full power to
 the said A. C. and his assigns, under the Reservations and Provi-
 sions above mentioned, immediately after my decease, to ask, crave,
 receive, Intrest with, and uplift the Sum of Money, particular-
 ly and generally above assigned, and to ransell, sell, and otherwise dis-
 pose upon the Household-plenishing, and other Goods and Gear above
 mentioned, and to apply the same Prices thereof, as is above provi-
 ded, and that this present Right and Assignment may be the more
 effectual, I by these presents, revoke, recal, and annul, all former
 Assignations, Rights and Dispositions, of the Premises, or any part
 thereof, granted by me to any Person or Persons in Trust, and other-
 wise, preceeding the day and date hereof; and likewise, I by these
 presents, annul and discharge all former Testaments, Last-wills,
 Provisions and Legacies, prejudicial hereto, excepting alienarly the
 Provisions contained in the Writs and Papers subscribed by me, up-
 on the day and date hereof, which yet are to affect the Monies
 hereby Disposed; And further, I hereby declare, That notwith-
 standing this present Assignment is to remain with me and in my cu-
 stody, during all the days of my Lifetime, and to be made use of only
 after my decease, yet the same shall be as valid, effectual and suffi-
 cient, to all intents and Purposes, as if they were a delivered Exe-
 cuted at the date hereof: Registration for preservation.

But, for a singular pattern, I here give you the Copy of the
 general Assignment of all Sums, &c. made by Sir John Nisbet
 of Dickson, Advocate to King Chas. 2d. a learned Lawyer,
 to his Heirs of Tail, with Provisions in favour of his
 other Kindred and Friends, which was formed by James Hay
 of Cuthbert, an experienced and knowing Writer to the
 Signet.

BE it known, Dec. 11. A. Forasmuch as I have bought six or se-
 ven, and provide my Estate in Lands, Tenements, and Others,
 following this of my own Body, in manner contained in a Paper of
 the date of these Presents; And seeing it is fit, that in the Case
 foresaid, I should provide likewise my other Estates, whomever it
 hath

hath pleased the Lord to bless me in Money and Bonds, or otherwise,
 and upon serious and good Considerations, I have resolved to provide
 the same in manner underwritten. Therefore to have Disposed,
 Transferred and Assigned, failtying Heirs Male of my own Body,
 and with and under the Conditions after-specified, to and in favours
 of B. the Heirs Male of his Body, which failtying, &c. all and
 whatsoever Debts, and Sums of Money, Heretable or Moveable, due
 to me, by whatsoever Person or Persons, by Bond, Contract, Infe-
 ment, or without the same, or any other manner of way, pertaining
 presently to me, or which shall hereafter pertain to me the time of my
 decease, and which are, or shall be contained in a Book containing
 the note and list of Bonds and other Receipts, whereby any Sum or
 Sums of Money is due to me, or which shall be contain'd in an In-
 ventary which shall be made at any time, of the Debts, Bonds and
 other Writs, whereby the same are, or shall be due; holding the ge-
 nerality foresaid to be as sufficient as if the said particulars were ex-
 pressly enumerate, and set down; Likeas, I by these presents, Assign,
 Transfer and Dispose, in the case foresaid, to the said B. and the
 Heirs of Tailz and Provision above-specified, all and sundry the
 saids Sums of Money, and Debts, Heretable and Moveable, presently
 due, and pertaining to me, by whatsoever Person or Persons at any
 time hereafter, with the Bonds, Contracts, Disements, and all other
 Rights granted to me or my Cedents thereupon, Providing always,
 likeas, &c. That it shall not be lawful to the said B. and the other
 Heirs above-specified, to uplift and dispose of the saids Sums of
 Money, pertaining or which shall pertain to me, or to employ the
 same or any part thereof, for any other use than the uses underwritten;
 and if the said B. or any of the Heirs above-specified, shall contra-
 vene this Provision, the Controvener for himself and the Heirs of
 his Body, shall lose their Right to the Sums of Money, and Debts,
 above-assigned, and the same shall pertain to the next Person having
 Right to succeed by the foresaid Provision and Entail, who shall be
 liable to employ the saids Sums in manner following. That is to say,
 my Debts being satisfied, which are presently due by me, or which
 shall be due the time of my decease; and the Provisions and Oblige-
 ments after-specified in favours of the Persons under-written, my
 Friends and Relations being likeways satisfied, the residue of my E-
 state in Money shall be employed in the Purchase of well-solden
 Lands, and Tennds of the same, where they may be most conveniently
 had, and in special in East or Mid-Lothian, or the Merse, &c.

near to my other Estate as can be, effecting and equivalent to the
 said free residue of my Estate in Money. And in case it shall be
 necessary and expedient, to uplift any of the saids Sums, before there
 can be any occasion for purchase. Then, and in that case, it is pro-
 vided, that such Sums as shall be uplifted, shall be re-employed, al-
 ways with the burden of the Provision foresaid. So that the
 samen shall not be uplifted and employed for any other use, than is
 above-mentioned. And farther, out of the tender respect I have to the
 memory of — my worthy Father, to whose great care and affection,
 and breeding me in Vertue and Letters, I acknowledge, that under
 God, I owe the Estate that God has blest me with; And seeing I
 have no Male Children of my own Body, to represent me, and my on-
 ly Daughter having gotten from me, a competent Tocher. I have
 been careful, that she and her Children, if there should be any, should
 be well, and plentifully provided by her Contract of Marriage, and
 Insement following upon the samen. And in regard, that after the
 Decease of my Father, — his second Daughter being bestowed in
 Marriage with the Deceast — I did obtain for him by my moyean,
 a Place in — and in these Places, having acquired a conside-
 rable Estate, he did bestow his Daughters, with my Sister creditful-
 ly, and did give with them large Portions, and Tocher; to which
 they got considerable additions of his Means, after his Decease; So
 that their Husbands and they are in a very good condition: There-
 fore I have resolved for the better provision, and help of my said Fa-
 ther, his other Grandchildren, and great Grandchildren after-menti-
 oned. And Binds and Obliges me, and the said B. and the o-
 ther Heirs of Tailzie and Provision foresaid: Likeas by accepting
 his present Right, they shall be Bound and Obliged, to have in readi-
 ness, against the first Term of Whitelunday or Martinmas after
 my Decease, the Sums of Money after-mentioned respective, extend-
 ing together, to the Sum of 50000 Merks, to be employed for, and
 towards the purchase of Land, effierand to the said Sum to my self, and
 to the said B. and my said other Heirs of Tailzie and Provision. And
 thereafter to be given, and Disposed by my foresaids, to be holden of
 them, viz. (there was the division of the Sums to his Friends) which
 Sums are given and provided by me, to the effect, that they may be
 employed upon Land in manner foresaid and no other ways: Likeas,
 I Bind and Oblige me and my foresaid, in case I have no Heirs
 Male of my own Body, the time of my Decease, to employ the said
 Sum of 20000 Merks for — and upon the Purchase and
 Acquiring

*Acquiring of Lands offhand and equivalent to the foresaid Sum, to
 my self and my foresaids: And the same being Purchas'd, to give
 and dispose the saids Lands and Tennds thereof, if the same be ac-
 quired therewith, to the said _____ and the Heirs of his Body
 which failzving, to his other Heirs successive, descending always of
 the said _____ my Father, the eldest always if Female being pre-
 ferred, and succeeding without division: Which all failzving, to
 return to my Family and my Heirs of Tailzie and Provision foresaid,
 to be holden of me or my foresaids, Feu or Blensch, for payment of
 40 lib. Scots of Feu-duty Yearly, and with and under the Provisi-
 ons and Conditions under-written: Likcas, it is provided, that
 the saids Lands shall be acquired & the Right thereof taken to the
 said B. and his foresaids, and that they shall be Disposed by them to
 the said _____ and his foresaids, with the Conditions and Provi-
 sions contain'd in the Bond of Tailzie, of the date of these presents
 and in the Assignation above-specified in favours of the said B. and
 his foresaids, for securing and preserving the Tailzie and course of
 Succession foresaid: Which Provisions and Clauses irritant, are
 holden as exprest, as they are set down expressly or relative, and shall
 be insert in the Rights and Infeishments to be granted to the said B.
 and his foresaids of the Lands to be purchas'd; and likewise in the
 Rights and Infeishments to be granted by the said B. or his foresaids,
 to the said _____ and his foresaids: And it is likewise declared,
 that the Lands so to be purchas'd for the said _____ shall be bur-
 dened with the Liferent of the said _____ his Mother, as to two
 third parts of the same during her lifetime, and in case she decease
 before her said Husband, with the said _____ his Liferent of the
 half of the saids Lands; which Liferents to the said _____ and
 _____ respective, are declared now as if the saids Lands were
 purchas'd, and then as now, to be reserved to them respectively.
 And in like manner, I bind and oblige me and my foresaids, in
 case I have no Heirs of my own Body the time of my decease, to em-
 ploy the said Sum of 20000 Merks above-appointed for the said
 _____ (here the Clause immediately above-written was re-
 peated in favours of the said _____ in the same very terms
 verbatim) As also to the other Friends nothing followed but
 a common Clause reserving power to alter, etiam in articulo
 mortis; and a Declaration that the same shall be a valid Evi-
 dent, notwithstanding that the same be lying in the Granters
 custody the time of his decease. After the Witnesses Names*

T

were

were insert, Sir John caused add this Clause, It is further declared, that it is my intencion, that the Lands to be purchas'd and given to the Grand-Children and Great-Grand-Children of my Father in manner above-written, should be purchas'd and acquired in the Shires of East-Lothian or Mid-Lothian or the Merse, as near to my Lands as can be conveniently had. Likeas, it is provided and declared, that until occasion offer of any Bargain or Purchase, for the saids Persons and their foresaids respectively, the said _____ and my other Heirs of Provision above-specified, shall be liable; Likeas, they shall be obliged by acceptation hereof, to pay the Annualrent of the Sums respective, from the first term of W. or M. after my decease, until the Lands to be purchas'd in manner foresaid, be Disposed to them respectively. Followed the Subscription.

Under general Assignations to Moveables, I comprehend Rights to all Casualties of Superiority, because the extent of them is not in the Conveyance defin'd and determin'd; such as

An Assignment of an Escheat.

BE it known &c. me A. Forasmuch as (here narrate the Gift of Escheat) And now seeing that C. hath made payment to me of a certain Sum of Money for granting of the Right and Assignment under-written wherewith &c. Therefore wit ye me to have made and constitute, as I by these presents &c. the said C. his Heirs and Donators, my very lawful Cessioners and Assignees, in and to the foresaid Gift of Escheat, and all Right that I have thereby to all Goods, Gear, moveable and immoveable Debts, Tacks, Streadings, Rooms, Possessions, AEs, Contracts, Actions, Obligations, Assignations, Debts, Sentences, Sums of Money, Jewells, Gold, Silver, coined and uncoined, Infight-Plenishing, and other Goods and Gear Escheatable whatsoever, which pertained formerly to the said B. the time of his being Forefauled for the causes above-mentioned, or at any time since; And further, to have sold, assigned, transferred and disposed, as I &c. to the said C. and his foresaids, all and whatsoever Bonds, heretable and moveable Annualrents, Wadsets, Adjudications, Apprysings, Tacks and Rights of Teinds, Decrees, and other Writs, Evidents and Securities whatsoever, made and granted to the said B. or any of his Predecessors to whom he is appear and Heir or nearest of Kin, and all Sums of Money, principal Annualrents, Penalties, Expences and Sheriff fees contained therein, on due

due by vertue thereof, together with the Gift and Assignment above mentioned given by _____ to me of the same, and all that has followed or may follow thereupon, Surrogating and Substituting _____ with power to _____ and dispose upon the Goods, Gear, Debts, Sums of Money, and Others, particularly and generally above written, and if need be, to call and pursue therefore, and obtain Decretes and Declarations general and special thereupon, and to use all manner of legal Diligence for recovering thereof, Compone, Transact and Agree thereunto, and generally &c. Likewise, I have herewith delivered to the said _____ the Gift above mentioned, to be keep'd &c. And also

An Assignment or Gift of Ward, Non-entry, and Marriage, of an appearand Heir, as follows.

BE it known &c. me A. Superior of the Lands and others underwritten, for diverse good Causes and Considerations moving me to have given, granted and disposed, and by these presents give, grant and dispose to B. his Heirs or Assigns, one or more, the Ward and Non entry, Mails, Firms, Rains, Customs, Casualties, Profits and Duties, of all and haill _____ with pertinents lying &c. of all Years and Terms bygone that the same has been in our Hands, and as and while the lawful Entry of the said deceased C. his Heirs or Assigns thereto, being of lawful Age; Together, with the marriage of his Son and appearand Heir, to the said deceased C. his Father, and failzying of him by decease unmarried, the marriage of any other Heir or Heirs, with the haill Profits of the said Marriage, with full power to the said B. and his forefaids, to ask, crave, receive, intromet with, and uptake the foresaid Ward and Non-entry, Mails, Firms, Rains, Customs, Casualties, Profits and Duties of the Lands and others above-written, of all Years and Terms bygone, and to come above-rehearsal, and Profits of the said Marriage, and thereupon to dispose at their pleasure, and to occupy the foresaid Lands with their own Pleugh and Goods, or set the same to Tenants, during the space of the said Ward and Non-entry, and either of them, with Court, Plaint, Herregheld, and with all and sundry other Commodities, Liberties, Privileges, Easements, and righteous Pertinents whatsoever, freely, quietly, well and in peace, but any Revocation, Reservation, or any other manner of way.

An Assignment of a gift of Casualty, by a Trustee in favour of a Wife, for whose behoof this Gift was obtained, including the *jus mariti*, by an express quality and provision of this conveyance.

BE it known &c. Me A. forasmuch as (here narrate the Gift) and seeing my Name was only entrusted in the same Gift, for the behoof of B. and upon the express condition, That I should Denude my self thereof, in manner after-mentioned: Therefore wille ye me, to have Assigned, Transferred and Disposed, or I by these presents Assigne &c. to the said B. under the Conditions, Provisions and Limitations after-rehearsd, the non-Entry Duties of the foresaid Annualrent of _____ corresponding to the said Sum of _____ and that of all Years, and Terms bygone, whereunto I have Rights by the foresaid Gift, and of all Years, and Terms to come, as, and while the lawful Entry of the righteous Heir, or Heirs thereto, being of lawful Age, together with the foresaid Gift is self, Process of Declarator raised thereupon, and all Action, Instance and Benefite competent, or that may be competent to me, by vertus thereof, under the Conditions, Provisions, and Limitations after-rehearsd. To witt, that the said B. is to have the only Right to the foresaid non-Entry Duties bygone, and to come, for the Aliment, Subsistence, and Entertainment of her, and her Children; with this express provision, That B. her Husband, and his Creditors, shall be Secluded from all Rights or Interest therein *jure mariti*, or otherways, and shall have no power to Assigne, or Dispose thereupon, nor do any Deed to Avert or mis-Apply the saids non-Entry Duties, for any other end or use, except for the Aliment of the Lady and her Children. And likewise, in regard the foresaid non-Entry Duties and Gift thereof, are expressly designed and intended for the Aliment, and Subsistence of the said Lady and her Children. Therefore it is hereby provided, and declared, that the same shall not be subject, nor lyable to any Arrestments, or other legal Diligence, at the Instance of the Husbands Creditors, for Debts Contracted, or that shall be Contracted by him, declaring all such Debts, and Deeds, and Diligences, that may be used thereupon, to be in themselves Null and Void. And that, notwithstanding whereof, the said B. shall have Power and Right to Uplift and Intramet with the saids Non-entry Duties for the use above-

men-

mentioned, and to grant Discharges thereof, by her self alone, without consens of her Husband, which shall be a sufficient exoneration to the Receivers. And it is farther hereby declared and provided, That, in case it shall happen, the said Lady to Decease before her Husband; in that case, what of the Non-entry Duties remains unpaid for the time, shall pertain equally to her Children and their Heirs (excluding Executors) with full Power to the said Lady, to Ask, Crave, Receive, Intromet with, and Uplift the Non-entry Duties above Assigned, and to dispose thereupon to the use above-mentioned, Compens, Transact and Agree thereunto; And generally, all other things concerning the Premises, to Do, Use, and Exercise, that I might have done my self, before the granting of this present Assignment. Which Assignment, I Bind and Oblige me, my Heirs, Successors and Executors, to Warrant to the said B. and her said Children, and their foresaids, from all Fines, and Deeds done, and to be done by me, or my foresaids, at any time bygone, or to come, prejudicial hereto attornorly. Likeas, I have instantly herewith delivered to the said B. the foresaid Gift, under the Privy Seal, with with the Summons of Declarator raised thereupon to be prosecuted, either in my name, or her own, as she shall think fit. Registration for Preservation.

Besides the variety arising from the three circumstances above discoursed of, there be a fourth; which we may impute to the quality of the Right, or designe of the parties: And that makes another division of Assignations into Redeemable and Irredeemable. The Irredeemable ones are these already treated of; The Redeemable Assignations are such, as are granted in security of a Debt, or for relief of Cautionry, so that, upon Payment, the Right *ipso jure* returns to the Cedent, if he was not divested of the possession. And, by pacton of parties, ther's a reversion, competent to the Disposer. For knowing of which sort, take an example of

An Assignation to Maills and Duries, for farther security of a Debt

BE it known &c. Me A. forasmuch as (narrate the Bond) And it being just and reasonable, that the said B. be secured, against the payment to her, of the foresaid Annuity of 2400 Merks yearly, aswell of such Years and Terms as are bygone resting unpaid, as in time coming. Therefore, in Corroberation of the said Bond, and former Securities granted to her for the samen; And

that butt prejudice or derogation thereto, or to any Diligence compen-
 sate to follow thereupon, sed accumulando jura jurius. *Wit ye*
me to have Assigned and Disposed: Likeas, I &c. to the said B.
as much of the first and readiest of the Mails, Firms and Duties of
the Lands and Barony of ——— and other Lands, Houses, and
Likers belonging to me lying, &c. due for the present Year 1707,
and in time coming, as will satisfy and pay her of the foresaid An-
nuity, and Termly Penalties thereof in case of faizle; And that
aswell of all Years and Terms bygone resting unpaid as in time com-
ing, during her Lifetime, with full power to her, to Uplift and
Receave the samen, and to grant Discharges upon the Receipt there-
of in baill or in part, which shall be sufficient to the Receivers. And
if need be, to Call and Pursue therefor, and use all manner of le-
gal Diligence against the Tenents and Possessors of the saids Lands,
upon the Decrees already recovered, or to be recovered by her, for ob-
taining payment thereof. It is always hereby declared, That what
the said B. shall recover, by vertue of this Disposition and Assignati-
on, shall be counted in part of payment of the foresaid Annuity, and
Termly Penalties thereof, that are or shall be incurred. And, for
farder security thereanent, I C. Son to the said A. do hereby con-
sent to this Disposition and Assignment: And declare, that whatso-
ever Rights the said A. has Granted, or shall Grant in my favours,
shall noways prejudice, nor come in competition with the Rights gran-
ted to the said B. for the Annuity above-writteu during her lifetime,
nor what is Resting thereof for bygones, nor interrupt any Diligence
necessary to be used at her Instance thereanent; Which Disposition
and Assignment, I the said A. do hereby Bind and Oblige me, my
Heirs and Successors, to Warrant to the said B. at all hands, and
against all deadly; and that I shall keep the saids Lands Possess by
sufficient Tenents, who shall be able to pay their Rents. Registrati-
on.

When for Furder security, and in Corroboration of prior
 Bonds, and Assignations granted and subjoyned to the Bond
 of Corroboration, and that whether of Movables or Hereta-
 bles, as Infeftments of Annualrent or the like; it is most pro-
 per, that it contain for the Creditors security, a Declaration
 in his favours, that albeit he be Assigned thereto in Corro-
 boration, yet he should not be obliged to intromet therewith,
 or do Diligence therefore, but if he pleased, and should not
 be obliged to Compt, but according to his actual intromission
 and no farder.

Of

Of Assignations in Trust, for doing Diligence:

Assignations, to Sums of Money and Securities therefor, being made to a comon Creditor for doing Diligence, do not differ from the common Assignations, but run on *verbatim*, in the same Style, neither makes mention of the Back-bond: And this is the most general way. But I have seen another way, which I look upon as more sure and convenient, and it is thus: The Bond and other Rights being narrated, the cause is, *And seeing, that B. who is also Creditor to the said Deceast ——— is to intent, Action against ——— now of that ilk, Son and appearand Heir to the said ——— for certain Sums of Money due to himself, which may be done upon the less Expence, if the Debt, contained in the Bond above-mentioned, were also Assigned to him, that there be one Diligence done for all; Therefore, &c.* an Assignment in common form, Surrogating the Assigney in the Cedents full Right, and Place of the Premisses, to the effect above-mentioned, *And the Writs were to be used by him to the effect above-written. Provideing always that the said B. be holden and obliged, as he by acceptation hereof, Binds and Obliges him, his Heirs, Successors and Executors, to Repone and Retrocess me in the Right of the said Bond, and Denude himself in my favours, of what Diligence shall be done thereupon in his name: With warrandice, from his own proper Fact and Deed, and the Writs, to be granted, thereanent, being formed and exped, upon my proper Charges and Expenses, conform to an Backbond Granted, or to be Granted, by him to me thereanent.*

Sometimes one makes Assignment to a Person, that he may use Diligence upon the Bond, and pursue for payment of the Sums; which Assigney gives a Back-bond to the Cedent. And, if it happens, that in implement of the Backbond, an Assignment is made to a third Party, at the Trusters desire, But thereafter upon another view and design, that Debt and Diligence is taken from this last Assigney and given to another Person, to prevent the multiplication of Writs, the Trustee and last Cedent be desired, upon getting up of his last Assignment, to sign an new one in favours of another Person, after the Warrandice of the second Assignment, there must be an Exception of the first Assignment, in this forme, *De-*

claring nevertheless, that the Assignment of the foresaid Bond and
Sutships,

Sum, which was granted by me to P. shall not infer an controvention of this Warrandice; the same being now retir'd by me and cancelled.

A. getting Right from his Majesty to B's Lands and Estate, fallen by Forfeiture, and to his Escheat, he Disposes the Lands to sundry Persons for B's behoof, who had obtained Remission, and that Escheat to B. himself. In the Warrandice of this last Assignment it is declared, That the Disposition granted for his behoof in manner foresaid of the saids Lands and Others (which likewise might be comprehended under Escheat as the Mails, Tacks, &c.) and Sums particularly and generally therein mentioned, shall not be interpreted any controvention of this Warrandice, nor infer double Warrandice against him.

When a moveable Sum is Tailzied, and the Assignations, either general or special, are granted with Provisions or Restrictions, the Persons in the Tailzie are subjoined one after another, in that part of the Right, where the Assigney's Name is placed, and the Provisions are put in the Clause of Surrogating, &c. And in the Assigning Clause which is before, and in the after part of the Right, you say Relatively, under the Provisions and Conditions after or above-mentioned, as thus, made and constitute A. and the Heirs of his Body, which failzying B. and the Heirs of his Body, &c. and in and to all Action &c. under the Provisions and Restrictions after-mentioned, Surrogating, &c. the said A. and his foresaids, which failzying as said A. in my full Right and place of the Premisses, under the Provisions and Conditions always after specified, viz. — with power &c. But I have seen the Provisions subjoined to the Clause of Assignment, and before the Clause, Surrogating.

When there is Reservation made by the Cedent in favours of himself, or any other Person, the Substitution and Surrogation in his full Right and Place, must bear the Assigney, only to his Right and place of the Premisses pro tanto.

Of Translations.

A Translation is a continuation of the Conveyance of a moveable Subject, by the Assigney to another Person; and generally the following Conveyances are term'd Translations,

lations, tho in a fourth or fifth degree of distance from the Assigney. Others again call such, *Dispositions*. But there's no settled denomination for such Writs; albeit the stile of them be fixed.

What has been said of Assignations, respects also Translations.

In the beginning, to the ordinary Designation, you put an additional one, thus, *Assigney after-specified, or, a having Right by Assignation; (or Translation or Disposition) in manner after-mentioned.* And, after the Bond or Diligence, or rather after copying the narrative of the Assignation, you narrate the Assignation it self in the ordinary form, and that the same was duely intimate, if it was so, and then you mention the cause of granting, which is the same as of Assignations.

Translation of a Bond and Sums therein contain'd, whereupon no Diligence has as yet followed.

BE it known &c. me A. *Assigney after-specified, Forasmuch as* (here narrate the Bond and an Assignation thereof in common form) *And now seeing that B. in name and behalf of C. hath made payment to me of a certain Sum of Money for granting the Translation under-written, wherewith &c. and discharged the said C. and also the said B. &c. renouncing &c. Therefore witt ye me to have Sold, Assigned, Transferred and Disposed, as I by these presents Sell &c. to the said B. for the behoof of the said C. the Sum of 20000 merks, and 2000 lib. of liquidate Expences and the Annualrent of the said principal Sum resting unpaid since the Term of Whit. 1707 Years, and in time coming during the not payment hereof; as also the Bond above-written, with the Assignation, Annualrent made to me thereof, Surrogating, the said B. for the behalf foresaid &c. with power to him or any other who shall be entrusted by the said C. to ask &c. and to grant Discharges &c. and if need be, to cause Register the said Bond &c. compone &c. and generally &c. Which Translation I oblige me and my——to warrant to the said B. for the behoof above-mentioned, from my own proper Fact and Deed. Likeas, I have instantly herewith delivered to the said B. for the behoof above-written, the principal Bond and Assignation above-specified, both unregistered, to be kept and used by him or his foresaid, as their own proper Evidents, Registration for preservation, and Execution if need be,*

The Translations and other Conveyances of Assignations, if they be many Bonds in the Narrative, whether granted by the same or by distinct Persons, to the Cedent; and if the Assignations to them are of different dates, and granted at several times, they are narrated in the same order with the Bond. Thus is *James Hay's* practice even in Assignations of the same date. The difference of the Stile, in an Assignation and Translation, is this, that the Stile of the Assignation runs thus, *I make B. his Heirs and Donators my very lawful Cession, and Assignment, in and to the Sum of ———— &c.* The Stile of a Translation is thus, *I have sold, assigned, transferred and disposed, Likewise, &c. to B. his Heirs or Assigns, the Sum of ———— &c.* The Bond and Assignation are narrated in the Narrative; and where ever the Bond is mentioned, the Assignation must be spoken of too. In the Clause of Translation, as there is a Translation of the Bond, so must there likewise be of the Assignation, which must be delivered up with the Bond. So that I remark no Material, and even scarce a verbal difference.

In the Clause of Translation of a Bond and Sum, contained in a general Disposition and Assignation of several other Bonds, Compts, Debts, and Sums of Money, the Stile of the Translation of the Assignation did run thus, *And in and to the foresaid Assignation made to me of the Premises; in so far as the same may be extended to the Sums hereby Transferred.* In which case also, the Assignation cannot be delivered up, as is usual; because it is a Right to other and greater Sums, so there must be an obligation, in these or the like words, *As also I bind and oblige me and my foresaids, to make the said Disposition and Assignation further coming to the said B. when he shall have necessarily to do therewith.* And this is put before the Clause of deliveriey of the Bond.

In Assignations or Translations, made by an Heir or Executor, of Goods belonging to his Father, or the like, the Cedent warrants it, not only from his own Fact, but from that of his Predecessors; the same must be done in case the Transferer have right by Assignation from a conjunct Person. The reason is, because, such Assignations being for the most part but Gifts, wherein there is no Warrantice at all, the Cedent, in this Translation, is, in all equity, obliged to secure his Assignee, from all hazard.

A Retrocession is a Write, by the Assigney, reponing and restoring the Cedent in his full Right and Place; with the same power he had, before the Assignment. It is most commonly used, when an Assigney, in trust, denudes himself in favours of the Truster; and it is in this form.

The Narrative being premis'd, in which commonly the Assignment or Translation is deduc'd; Or sometime the Back-bond is narrated. After which follows the Subsumption which is various, according to the circumstance and bargain of Parties. Thus a Tutor to a Minor whose Father had got Right in certain Sums for security of a Debt owing him, and had granted Back-bond, being about to Retrocede the Cedent, Subsumes. And seeing the said B. did not recover payment of the two Debts above-mentioned which were due by———also seeing the said C. hath given to the said B. my Pupil a Discharge of the Back-bond above-specified, where through in all equity and reason he ought to be reponed to his own Right and Place of the two Debts above-written due by the said —— and his Cautioner, and by the said —— Therefore, &c.

Another form of a Subsumption is this. *And seeing my Name was only borrowed to the Assignment, Translation and Disposition above-rehearsed by the said C. upon my faithful promise for denuding me thereof in his favour, in manner, after-express. Therefore &c.*

The peculiar Stile of the Retrocession, is what follows. *Therefore witt ye me, to have reponed, restored, and retroceded, as I by these presents &c. the said C. his Heirs or Assigney, including his Executors to his own Right and Place of the two Debts above-specified due by the said —— and his Cautioner, and by the said —— with the Assignment and Translation of the first Bond, and the Assignment of the said second Bond, and all that has followed or may follow thereupon. Surrogating &c. With power &c. as in a Translation. And generally all other things &c. before the granting of this Retrocession, which I oblige me to warrant from proper Fact and Deed in common form. Likewise, I have delivered back to him the Extracts of the two Bonds &c.*

Of Vendition of Ships

Ships, Boats, Barks, and the like Machines, moving on the Water, are Conveyed, by a moveable Right, which is of a peculiar Scile, and is called a Vendition, thus,

BE it known &c. me A. master of the good Ship called &c. which I lately caused build in &c. and which cost me, by the fitted Account subscribed by the Owners, 1054. lib. sterl. Money, for the Sum of ——— Money foresaid, at the just sixteenth Part of the said said Sum contented, payed, and really and with effect, delivered to me, by B. whereof I by these presents grant the Receipt, Renouncing all Exceptions and Objections in the contrax; and by these presents exonerating and discharging the said B. his Heirs, Executors, and all others whom it effords of the same for ever. To have Sold and Disposed, Likas, I by these presents sell and dispose to and in favour of the said B. his Heirs and Assignes (excluding Executors) all and haill the just sixteenth part of the said Ship called ——— with the sixteenth part of the Guns, Tower, Sails, Anchors, Mast, Roor, Oar, Float-boats, and all other Furnisurs and Pertinents belonging thereto; Together with all Right, Title, Interest, I have or can pretend to the same: And I hereby surrogate and substitute the said B. and his foresaids, in my full Right and Place of the said sixteenth part of the said Ship and Pertinents. And further I bind and oblige me, my Heirs, Executors and Successors, to make just Account and Reckoning to the said B. his Heirs and Assignes (excluding Executors) of all and sundry the Fraughts of the whole Voyages the said Ship shall happen to ply without or within this Kingdom, and to make payment to him or his foresaids, of the whole profit which the foresaid sixteenth part of the said Ship shall happen to make, and that after ilk time of her return within this Realm, before any resailing furth thereof, or at any Port or Place abroad where I am required. The which Vendition, I bind and oblige me and my foresaids, to be good and sufficient to the said B. and his foresaids, for their Right to the said sixteenth part, and free in all Waters, Passages, Roads, Rivers and Creeks, within or without this Kingdom, from all Debts and Sums of Money, Arrestments, that may in any way marr or impend him or his foresaids, in the peaceable Possession thereof, by any Fact or Deed done, or to be done prejudicial thereto. Registration.

Of Testaments.

Moveables are conveyed by a Latter will and Testament; which is a Write expressing the pleasure of the Proprietor, in the disposal and conveyance of his moveable Estate, and the Guardianship of his Children under Age, after his decease; and it contains the Nomination of an Executor or Administrator of these Goods, which is an essential part of the Testament. But this Nomination alone will not give a Right to the Goods; save to a third part, which the Law allows to the Executor, in recompence of his trouble. Therefore if the Testator design, to give the Executor any share of his moveable Estate, it must be done by way of Legacy; and then the Executor is made either universal Legator, or gets a determined Portion of the Moveables: For Legacies are only given in a Latter will, under which I comprehend both Testament and Codicils, which differ from a Testament in this: That it has no Nomination of an Executor; That it presupposes one to be designed either before or after, and nevertheless are valid, tho' no Testament be made; for Codicils contain only Legacies, which are to be paid, either by the Executor nominate, or by the Defunct's nearest of Kin.

The Style of a Latter will is very arbitrary; for the only Rule, both in the Form and legal Effect of it, is, the Will and Pleasure of the Testator, which, if intelligible and practicable, is faithfully obeyed. The following Form is now in use.

I A. being for the present, by the blessing of God, in health of body and mind; yet considering the frailty of Man's life, and the uncertainty of the time of my Death, Am therefore resolved, to order my affairs in my own time, that all differences, which may fall out thereafter after my Death, may be obviated and prevented; and therefore, I make my Latter will and Testament, as follows. In the first, I recommend my Soul to God Almighty my Creator, hoping to be saved, by the merits of Jesus Christ, my only Lord and Redeemer. And I desire my friends, when it pleases God to call me, to cause decently Inter my Body, in the ordinar Burial place of my Family, And, as to my worldly Estate, I nominate B. my eldest son,

now on life, and the Heirs of his Body, which failzieing C. my second Son, and the Heirs of his Body, to be my only Executor and universal Legator, and Innometer with my bail Goods, Gear, Debts, Sums of Money and Moveables, of whatsoever nature pertaining, or that shall happen to pertain, and be resting to me the time of my Decease, and falling under Testament, to whom I Leave and Bequeath the same, with the burden always of the payment of my Debts, and the provision of my other Children; and of what part of the Moveables it or shall be provided by me to D. my dear and well beloved Spouse. And sicklike, I nominate my said Spouse, and ——— or any three of them, my Wife being always one; and failzieing of her by Death or Marriage, the said ——— and failzieing of him, the said ——— and failzieing of him, the major part of the Survivors to be Tutors, to such of my Children as shall be within the Years of Tutory, the time of my Death; And that during the bail space of their Pupillarity, with power to them, or their Quorum foresaid, to exerce the said Office, and to do every thing requisite and necessary thereunto. And specially, with Power to them, to make choice of some honest Men, to have the only Intromission with my Estate, and Management of their Affairs, and to allow him a Salary for his pain.

The Preamble may be thus also, Yet considering the certainty of Death, and the uncertainty of the time thereof; and being resolved to settle my Affairs in my own time &c.

I have seen Testaments without any Preamble, thus, I A. in these presents, make my Latter-will and Testament, as followes, I Nominate &c.

If there be two or more Legators, there is ordinarily a division of Goods and Debts, thus; To whom I Leave and Bequeath the same, to be used and disposed upon at their pleasure, according to the division following. viz. To the said B. the bail Plenishting within or without my said Dwelling House, with the bail Debts and Rents Due, and that shall be Due to me by Tenenes, and all Debts that shall be Due by other Persons, for which there shall be no security in Write, with my best Ring or Jewell that shall belong to me at the time of my Death; Declaring, that uncutted Webe and Silver-plate within my House, whereupon my own name is Engraven, my own wearing Cloaths, and paraphernalia or Ornaments, Rings, Watches and Jewels, (except the best Ring or Jewel a said is) shall not be included in her part. And to the said C. I leave the

foresaid

foresaid uncutt Webbs of Cloath of all sorts, with the Silver-Plate whereupon my own name is Engraven, and all other Sums of Money, and other Moveables falling under Executry, not left to the first, which Goods, Gear, and others above-written, I leave to my saids Executors, with the burden of all my Debts, that shall be Resting unpaid by me at the time of my Death, and with the burden of my Funeral expences: The saids Debts and Funeral expences to be equally payed betwixt them.

Tho' the power of confirming Testaments be naturally implied, and belongs *ipso jure* to all Executors; And tho' the last Testament is in Law a tacite revocation of all former; And that notwithstanding of the Testators conveying his Moveables, and binding himself and his Executors to pay Legacies; Yet he has an inherent power, to annul that Deed: Yea so as he cannot bind himself not to recal it. Nevertheless, I have seen in Testaments, a power to Confirm, a Clause of Revocation of all former Testaments, and a Reservation of a power to alter and innovate, which were expressed thus. And with power to them, to give up Inventar, Confirm Testament, and to do every thing necessar and competent to them as my Executors: And that this my Testament and Latter-will, may be the more valide and effectual. I by these presents, Revock all former Testaments and other Deeds that may militate against, or be prejudicial hereunto, reserving nevertheless to me full power and liberty at any time of my Life, in Sicknes, or upon Death-bed, vel in ipso articulo mortis; to alter and innovate these presents, and to dispose otherwise upon all, or any part of the premisses as I shall think fit by my self alone, without consent of them or either of them.

If you desire that former Testaments or Legacies left by Anterior Deeds, should not be infringed, there must be a Declaration in the last Testament, Intimating that delign of the Testator; which I have seen, in this form. And declaring, that these presents shall no ways prejudice what I have formerly done, or shall do, in favour of any other friends, either by word or writ.

If the Testator be to burden his Executors with Legacies, in the Clause wherein they are burden'd with the Debts, you say, and with the burden of the Legacies under-written, to my friends after-named. viz. I Leave and Bequeath to _____ the Sum of _____ and so forth.

Sometimes the Testator names a Factor, and appoints the Salary, thus, *And I do farther appoint, that _____ shall have the only Intromission with my Son's Estate, and Management of his Affairs, during his Minority after my Decease, and who is to be Comptable to my said Son's Tutors, and Curators for his Intromission and Administration, Yearly, and oftner as he shall be required, and is to have the allowance of the Sum of _____ Scots Money, Yearly for his pains, beside his other Debursements and Expences: And failing of him by Death, or otherwise, with full power to them, or their Quorum foresaid, to appoint some, one of their own number, or any other they think fit, for the Intromission with, and Management of my Son's affairs, and to appoint, and allow such a Salary for his pains, as they shall think reasonable.*

Before, that by A& of Parliament, Testators had power to Nominate Curators to their Children, they inserted in their Latter-will a *fidei commiss* and recommendation to their Children, to Elect the Tutors they had named, for to be their Curators; which still may be made use of, and the Clause is thus, *As also, I desire my said Children after the expiring of the Years of their Tutor, to make election of so many of my friends above-mentioned, as shall be as Life for the time, to be Curators to them, till they attain to the Age of 21 Years compleat.*

Until the A& of Parliament 1696, Tutors and Curators were lyable for Omissions, as well as Commissions, but since that Law was made, a Testator may Nominate Tutors and Curators, and the Minor may Elect his Curators, and dispence with, or Discharge all Omissions.

To conclude this Title, I give the form of a Testament and Nomination of a singular contrivance. Thus,

I A. Nominate and Appoint B. and the Heirs of his Body, to be my only Executor, universal Legator, and Intrometter with my hall Goods, Gear, Debts, Sums of Money, and Moveables of what-soever nature pertaining, or that shall happen to pertain, and be Resting to me, the time of my Decease, to whom I Leave and Bequeath the same, with the burden always of the payment of my Debts, and the Provisions of my younger Children, and of such Legacies as shall be left to any of my Friends. And likewise, I Nominate and Appoint C. to be Sole, and only Tutor and Curator during his Life.

Testament, to the said B. my Son, and to all my other Children, that shall be within the Years of Tutor or Curator, and failing of him by decease, I nominate and appoint D. to be sole Tutor and Curator, to my said baill Children during the space of their Pupillarity and Minority, with full power to the said C. to intromet with either, by himself or any other whom he will be answerable for, with the Honors and Duties of my Son's Estate, and with his Money and Moveables. As also, with what shall belong or appertain to my other Children. In which case, I for my self, my Heirs and Executors, do hereby allow to him the Sum of _____ for his Pains, by and attour his necessary Expences and Debursments; and failing of the said C. by decease, I allow the said Sum of _____ to be allowed to the said D. for his Pains, in managing of my Son and other Childrens Estate and Means: Besides that, I allow the said C. when he cannot attend himself, to appoint a Chamberlain, with power to intromet, and to give to the said Chamberlain a reasonable Fee for his Pains yearly, and for which Chamberlain he is to be answerable. And because I have entire confidence, both in the said C. and D. that they will faithfully and carefully manage my Son's Estate to the best advantage, and also the Portions of my other Children: Therefore I for me, my Heirs, and Executors, do hereby expressly declare, that I have named them with this quality, and they are to accept in no other terms; but that neither of them, nor their Heirs, nor Representatives after them, are to be charged with any Omissions concerning their said Tutor and Curator, but they and both of them, and their Heirs and Executors, are hereby expressly exonerated and discharged to all Intents and Purposes. And in the next place, I request my Friends after-nam'd, to witt, E. F. G. H. or any three of them, the said E. or F. being alwayes one of the three, to meet once in the Year, and to revise the Accompts of the Intromissions with, and management of my eldest Son's Estate, and Portions of the rest of my Children: And also, to enquire anent their Education, with power to them or their Quorum, to approve the Accompts and Discharge the same; and particularly not to Charge the said C. or the said D. in case he succeed to him, with any Omissions as before is mentioned. And I declare, that the said Friends then meeting and considering of, or Discharging the saids C. and D. their Accompts, shall not import nor infer upon them, or any representing any of them, their behaviour as Tutors or Pro-tutors, Curators or Pro-curators, to my said Son, or other Children; in regard, I have only desired them as Friends

to be as that trouble at my request, and they are not to do in that
 Trust under any legal Capacity, but merely as Trustees and Friends,
 to whom I have seriously recommended my Childrens Affairs.

Of Factories

HAVING treated of such Acts and Writings, as are made
 and done by the Parties themselves, personally pre-
 sent, It remains that we set down such as give Authori-
 ty to others, who are called Factors or Attorneys to do for
 them, and this is allowed by Law; and upon very good rea-
 sons, seeing many times the principal Parties themselves are
 so hindered by Infirmary, or by such multiplicity of Business
 and Affairs in sundry Places, that at one time they cannot be
 present at all: Wherefore Factors and Attorneys are very ne-
 cessary and profitable for humane Society, and they are de-
 sign'd to be, Persons qualified by Law, who at the request,
 command, or by consent of the Parties concerned, take heed,
 see to, and take upon them the Charge to do other Mens Bu-
 siness and Affairs in their absence, according to the Authority
 and Trust given them. The Writings giving this Power, are
 called Factories, Commissions, or Letters of Attorney.

Here we treat only of Powers and Factories, given by pri-
 vate Persons, for the better Administration of their Fortunes,
 and peculiar Affairs; and especially for uplifting Money and
 receiving Rents, to which the word Commission is not pro-
 perly applied, seeing according to the true use of words, it
 rightly signifies a Write expressing the Power and Warrant
 whereby Men exercising Jurisdiction, either ordinary or ex-
 traordinary Authorise others, to hear and determine any Cause
 or Action, tho this word is sometimes extended further than
 Matters of Judgment, and frequently made use of, where the
 Subject of the Factory is of great value.

Factories are either General or Particular, so nam'd from
 the generality or Speciality of the Power, and of the Business
 express'd in the Commission.

A General Factory by a Merchant was thus.

BE it known Sec. mo. A. Merchants in Edinburgh, Forasmuch
 as I am shortly, God willing, to depart out of this Realm, for de-
 ing

ing my lawful Affairs; and being resolved to commit the ruling and governing of my Business here in this Kingdom during my absence forth thereof, to B. Therefore with ye me to have made, constituted and ordained; Likewise, &c. the said B. my Father in the effect under-written, Giving, granting, and committing unto him, my full Power, Warrant and Commission, for me, and in my name, during the space of my absence out of this Nation, to ask, crave, receive, recover with, and uplift all and sundry Debts, and Sums of Money, resting, owing to me, by Bond, Bill, Ticket, Decree, Count-book, or any other manner of way, by whatsoever Person or Persons, for whatsoever Cause or Causes, and to call and pursue therefore before whatsoever Judges Consuls, or officers of the Law, and to obtain Decrees thereupon, and cause put the same to due Execution, and to use all manner of legal Diligence for recovering payments thereof, and to grant Discharges upon receipt of the same, in whole or in part, which shall be as sufficient to the receiver, as if I had subscribed and delivered the same my self; and generally all and sundry other things unto the Premises, to do, use and execute during my absence, that I might do my self if I were personally present; promising to hold firm and stable, all and whatsoever things my said Father in the Premises lawfully does, or causes to be done, butt revocation. Providing always, he make compte, reckoning, and payment to me at my return, of the Sums of Money so to be uplifted by him; he being satisfied for his Pains, and having deduction for his Expenses. Registration.

The motive of granting the Factory, and of choosing the Person nam'd, is various, according to the circumstances or intention of the Party, thus, Be it known &c. me A. for diverse onerous Causes and good Considerations moving me, to have made and constitute, &c.

Another, Forasmuch as by my constant abode and residence in _____ I cannot conveniently attend my Affairs in _____ and having certain experience of the faithfulness, honesty, and diligence of B. Therefore, and for certain other onerous Causes and Considerations, with ye me to have made, &c.

Or thus, Forasmuch as I am resolved, upon grave and weighty Considerations, to intrust the management of my Affairs, to my dear and well beloved Spouse, for the space after-mentioned. Therefore, &c.

Or thus, Forasmuch as I am now to go abroad for my Studies, and being resolved, for the more convenient management of my Affairs, to

For the said Person B. of whose fidelity, care and diligence, both I and my said Counsel are sufficiently convinced, Therefore, &c.

Or the receiver to make choice of the Person particularly nam'd may be thus, *And us being fully informed of the sufficiency of care, fidelity, and diligence of B. to undergo the trust after mentioned, Therefore, &c.*

In the Clause of Constitution, some Writers say, *Factor and Commissioner, or Commissioner and Factor*; but I observe this is only done in Factories for uplifting Land-Rent, and for managing Matters of great value and importance.

The words expressing the Power, *To ask, crave, receive, intromit with, and uplift, (or uptake)* are without variation in all sort of Factories.

The manner of expressing the Subject Matter of the Commission, is various, according to the nature of the thing, and cannot be determin'd, as will appear from the following Examples and Cases.

In a Factory by a Relict to uplift her half of Moveables and the Rents of her conjunct Fee-lands, it was thus, *To uplift from the Executors and Administrators with the Goods and Gear of the said deceased C. my Husband, my half-falling and pertaining to me as Relict, by the Law and Practice of this Kingdom, of his whole Goods, Gear, Debts, Sums of Money, and Others, which pertained and were resting to him the time of his decease, who deceased in the Month of _____ last bypast; and likewise to ask, crave, receive, intromit with, and uptake the Huilt Mails, Fines, Rents, Customs, Casualties, Profits, and Duties, of the Lands and Others belonging to me, in conjunct Fee and Discrete, of this instant Crop and Year of God 1707, and suchlike, of all Years and Terms thereafter, during my life-time, and if need be to call and pursue therefore, &c.*

In Factories, which are Special, the Sums, Bonds, Conveyances and Diligence, is express, thus, *To uplift from C. the Sum of 500 merks Scots Money of Principal, and huilt bygone annualrents thereof resting unpaid, contained in a Bond granted by him to D. and failinging of him by decease, to E. his lawful Daughter, her Heirs or Assigns, of the date _____ and in an Assignation granted by the said E. now my Spouse to me, dated _____ whereupon I raised Letters of Writting, Pounding and Arrestment, and by virtue thereof, caused Arrest _____ in the hands of _____ his Things. And so forth if there be more Bonds. To these particulars,*

particulars, one may subjoin (if there be occasion for it, and if it be the will of the Granter so to do) a general Clause, thus, *And sick-like to ask, crave, receive and uplift, all and sundry other Debts, and Sums of Money resting, owing to me, by whatsoever Person or Persons, for whatsoever cause or occasion, &c.*

This Clause will be more illustrated by the Examples, hereafter set down.

The Clause, where the manner of exercising the Power, is mentioned, varies likewise, according to the nature of the thing, and as was said, concerning the Power in Assignations, So in the above Case of a Factory to intromet with a Relicts share of Moveables, and the Duties of her Liferent-Lands. The power was thus, ——— *And if need be to call and pursue therefore as accords of the Law, either in my Name or their own, as they shall think expedient; and to grant Acquittances and Discharges thereon, which shall be as sufficient to the Receivers, as if I had made and subscribed the same my self; and to remove, out-put and in-put the Tenants and Possessors of the Lands and Others foresaid; and to set the same for the accustomed Duty: And in like-manner to constitute Procurators and Advocats to pursue and defend for me, in all Actions and Causes to be pursued at my instance or against me: As also, to substitute and depose Factors and Commissioners under them, for managing of the Premises, sick-like and as freely in all respects, as I could do therein my self, if I were Personally present.* A further variety in expressing this Clause, will appear from the Cases below. ♡

The promise to Ratify, is more briefly, thus, immediately after the power, say, *Which I promise to hold firm and stable, providing &c.*

The provision, that the Factor shall be Accomptable, is also various, ——— *Providing always, that the said B. his Heirs and Executors, shall be bound and obliged to make Compt, Reckoning and Payment to the said A. his Heirs and Executors, or to us, or to any other who shall have power to call him to: an Accompt for the time, for the behoof of the said A. and his foresaid, of his baill intromissions with the A's. Rents, Rents and Money, and that yearly or oftner as he shall be required: And likewise, that he shall do legal and exact Diligence, for ingathering of the Rents and Money, which he is hereby entrusted to uplift; and that he shall omit no duty incumbent on him for uplifting thereof, or managing of the Trust that is hereby trust-*

mitted to him, conform to a particular Bond apart, Granted by him to us thereunto, and which is relative to this present Factory, allowing to the said B. his expence &c.

After the provision to Compt, comes the Clause, expressing, That allowance is to be given the Factor, of his Charges and Expence ; and of a premium for his pains, which for the most part are mention'd in general terms ; The Expence to be war'd out, cannot be determin'd but the Fee or Sallary is sometime liquidated, and they are thus, *Allowing always the said B. the Sum of 500 merks Yearly for his pains, and also, his necessary Expence for doing the said Diligence ;* And when then there is no Sallary mention'd, that part may be omitted, keeping the rest of the Style, thus, *Provideing my said Factor shall be holden to make Compt, Reckoning and Payment to me, of the Rents, Goods and Gear pertaining to me, according to his intromissions therewith, with deduction always of the Charges and Expences which they shall happen to Deburse anent the Premisses, conform to their Account of the same.*

Some express the manner, how these Accompts are to be Clear'd and Proven, as, *deduceing the necessary Charges and Expences—upon their honest Word and Declaration under their hands.*

To illustrate this sort of Style, I give the following Examples and Cases. A Factory by a Minor with consent of his Curators the motive, and constitution being premis'd, say — *Committing to him full Power &c. for me and my said Curators, and in our name to Ask, Crave, Receive, Intermet with, and Uplift the bail Mails, Firms, Kaines, Customs, Casualties, Profits and Duties of whatsoever Lands pertaining to me, within this Kingdom, for this Instant Crop and Year of God — with all Rests of whatsoever proceeding Years : As also, all and whatsoever Sums of Money, addebted, or that shall happen to be addebted to me, within the said Realm, both principal Sums and Profits thereof, from my Debtors. Declareing nevertheless, that at the Uplifting of the principal Sums, he shall always be obliged, to take the Advice and Consent, in write, of the said C. and failzieing of him by Decease, of the said D. and to Call and Pursue therefore, as accords of the Law ; and to give Acquittances, Renunciations and Discharges thereupon, and als to give Assignations and Translations, to Bonds, for which he shall Transact, with Advice and Consent of the said C. and failzieing of him, of the said D. as said is, which shall be als*
Suffici-

sufficient to the Receivers, as if I and my saids Curators had Subscribed and Delivered the samen our selves; and to Warr, Impley and Bestow any Money, that he shall Oplift, belonging to me, upon sufficient Security; and to take the Bonds, that shall be granted for the same in favours of my self, my Heirs, Executors or Assignes: and als to make and constitute, place and displace, at his pleasure, Advocates and Procurators, for pursuite and defense, of all and whatsomever actions intenced at my instance, or against me: And further, to set Tacks of my Lands, in case any of the present Tacks expire, Or that the Tennents shall happen to be removed: Always with advice of the said C, and failzieing of him by decease, of the said D: And generally to do all other things necessar and convenient for the manageing of whatsomever my affairs within the said Kingdom of Scotland, from time to time, during my minority as said is. Sicklike, and als freely in all respect, as I might do therein my self, if I were personally present, promising &c.

A more ample forme of Factory and Commission by a Husband to his Wife was thus,

Giving &c. to Intromet with, and Optake the haill Mails, Fermes, Keyes, Customs, Casualties, Profits and Duties of my haill Lands, Lordship and Barony of ——— and haill other Lands and Heretages belonging to me of this Instant Crop, and Tear of God ——— with all Rests of whatsomever preceeding Tears: And likewise, of all Tears and Terms to come, during the space after-mentioned: As also, all and whatsomever Sums of Money Addebred, or that shall happen to be Addebred to me within this Kingdom, both principal Sums, Profits and Penalties thereof, from my Debtors, and from the Tennents and Possessors of the Lands and others foresaid, and from my Factors and Chamberlains, and all others whom it effeirs, and to Call and Pursue therefore as accords of the Law, either in her own name, or mine as shee shall think expedient, and to give acquittances and Renunciations thereupon, or if need be, Assignations, Translations, Dispositions, or other Rights thereof, which shall be as sufficient to the Receavers, as if I had Made and Subscribed the samen my self. And to apply the first and readiest of the Intromissions, next after the Mantinance of her self and our Family; for the Payment of Chamberlains and Servants Fies, and what Ministers Stipends, or Feu Duties, or School Masters Fies, and incident publick burdens, are or shall be Due, furth of my Estate. And in the next place, for payment of the bygone and current Annualrents of the haill Debts

Due

Due by me, and what shall be over, for the Payment of Principal Sums, Resting by me to my Creditors. As also, to Intend, Prosecute and follow forth Actions and Processes of Reduction, Improbation, Declarator, Actions of Relief, or for payment of whatsoever Debts Due to me, and to prosecute and follow forth the same. And likewise, to Compose and Agree thereanent, and to Make and Constituto, Place, and Displace at her pleasure, Procurators, Advocats &c. As in the former Style. And to Constituto Baillies and Chamberlains, of my baill Lands and Barony, and to give them such allowances as she shall think reasonable; and to Receive and Enter the Heirs of all my Vassalls to all Lands, and others; wherein their Predecessors has died or shall hapen to die, last Vest and Seased as of Fie holden of me by Precepts of Clare Constat, or Precepts upon retour, as she shall think expedient. And likewise, to receive all Resignations to be made by any of my Vassalls of my Lands and Heresages holden of me, in favours of whatsoever person or persons, and to grant Infeoffments thereupon. And likewise, to Confirm all Charters made, or to be made by any of my Vassalls, to whatsoever person, or persons in Liferent Conjunct Fie, Heretably, or otherwise, of whatsoever Lands, or others holden of me, and to grant Charters upon Appoyntings, Adjudications deduced, or to be deduced, as the Instance of whatsoever person or persons, of whatsoever Lands, Heresages, or others holden of me, without alteration, always of the former holdings. And in like manner, to Grant and Dispose Presentations, Gifts of Ward, Non-entries, Marriages, Liferent Escheats, and other Casualties of my saids Vassalls fallen, or that shall happen to fall in my hands, and to Make and Subscribe with her Hand, and cause Seal with my Seal, all Presentations, Precepts of Seafine, Charters of Confirmation or Resignation, Charters upon Adjudications or Comproysings, Gifts of Ward Non-entry and Marriage, Liferent Escheats, and other Securities requisite to the effect above-specified, and to set down and modify the Compositions, to be payed to me for the same: And to Set Tacks of my baill Land and Possessions for the Old duties, or for the greatest Duties that can be had for the time: And to Bigg, Beat and Repair my Manour Places, Houses, Biggings, Yards, Orchards, woods, Parks, and Dykes thereof; and to make such policy about the same as she shall think expedient; and to Deburse of my own Money all Charges requisite concerning the Premises: And to grant Bonds Heretable or Moveable, or Contracts of Wadset for security of the same, containing Obligements, to Infeft Procuratories of Resignati-

on, Affignation to the Mails and Duties, and to the Writs and Brevets, and Right to the Teinds and Annuities thereof, and Clause of absolute Warrantice, upon me, my Heirs and Executors; and to bind and oblige me and them to repay the Sums to be borrowed, and for which the saids securities shall be granted, at such terms and times, and under such penalties as she shall agree with the Parties, and that also well for Debts that are already due by me, whether Principals or Annualrents, as for what she shall hereafter borrow for my use: And generally to do all other things requisite and necessary thereunto, which to the Office of Factory and Commission in such cases, by the Law and Custom of this Kingdom, is known to appertain, and which I might do my self if I were Personally present, promising to hold firm and stable, all and whatsoever things that my said Spouse does or causes to be done in the Premises, butt Renunciation: Providing always, that all heretable and moveable Bonds, Wadsets, Discharges of principal Sums contained in Bonds, Assignations, Translations, Dispositions, Renunciations, Letters of Bailliarie and Chamberlainry, Charters, Presentation, Precepts, Gifts of Ward, Escheats, Non-entries, Disclamations, and other Casualties falling to me, as Superior, Tacks, Warnings of Tenants, and the clearing of Accounts with Chamberlains, to be granted by my said Spouse, shall be made with advice and consent in writte of my Friends above-named: Or any two of them, the said _____ being absent, and failing of him the said _____ and failing of him by death or absence, the consent of the major part of the remaining Friends; and as to all other matters, except these immediately above-mentioned, she is hereby warranted and allowed to do the same by her self alone: Providing always, that my said Spouse shall be holden and obliged to make just compte, reckoning and payment to me, or my Heirs or Assignees (secluding my Executors) of her intremissions by vertue of this Factory and Commission, and that Yearly or oftner, either to me or my foresaids, or to my Friends above-named, or their Quorum, as she shall be desired; and this Factory to endure and continue for this instant Crop, and Year of God _____ and for the space of _____ Years, and thereafter, till it be recalled by me in Writte. Registration for preservation only.

A Factory, Chamberlainry and Bailliarie, which is granted only by a Landed Gentleman, who is Invest with power to hold Courts, was thus, _____ Giving, &c. to him full Power, Warrant and Commission for me, and in my Name, to ask, crave, receive,

Interests with, and uplift the haill Visual and Money-Rent, due
 and payable to me, for the Crop—by the Tenents of my Lands
 and Barons of—and to grant Discharges to the Tenents u-
 pon the receipt thereof, which shall be as sufficient to the Receivers,
 as if I had subscribed and delivered the same my self, and with power
 to him to sell the Firms as he shall from time to time be ordered by
 me, to be delivered at Edinburgh or at Leith, or at any place of
 the like distance from the respective Lands, I being always satisfied
 with the price and security, before the Bargain be closed: And gene-
 rally with power to the said B. for the ingathering and recovering the
 saids Rents, &c. that I might do my self if I were Personally present,
 promising to hold firm and stable, &c. And further witt ye me, to
 have nominate and constitute, as I &c. the said B. dureing the con-
 tinuance of this Factory, my very lawful and irrevocable Baillie, to
 the effect afterspecified, of my Lands and Baronie of—and other
 Lands above-specified belonging to me lying within the foresaid Pa-
 roches; Giving, granting, and committing to him, my very full
 Power, special Mandat, express Bidding, and Charge for me, and
 in my Name, to set, begin, affix, fence, hold, and continue Baron-
 Court, or Courts, as oft as he shall think expedient, and that upon the
 ground of any part of the Lands and others above-rehearsed and there-
 in to administrate Justice in all Cases to be invented before him, con-
 form to the Laws and Practick of this Realm, and to cause Suites be
 called, amerciat absents, punish Transgressors, and to uplift the
 pains and amerciements of the foresaid Courts, and if need be, to
 cause poind and destrenzie for the same, and generally all and sun-
 dry other things in the Premisses, to do, use and exerce, which to
 the Office of Bailliary &c. sicklike &c. as if I were personally pre-
 sent, promising to hold firm &c. And I do declare, that I allow to
 the said B. the fines and amerciements of Courts, that shall be
 holden by himself for his pains and travel in exercising the foresaid
 Office of Bailliary, which is to continue and endure for the space of
 one Year after the date hereof, and longer, except I shall think fit to
 revoke the same: It is also hereby declared, that the Inclosure in
 —which was sometime possessd by—and lately by the Tacks-
 men of my Estate, is not to belong to the said B. but he is to be com-
 table for the Rent thereof to me; Providing always, that the said
 B. his Heirs and Executors, be holden and obliged to make just compr,
 reckoning, and payment to me, of his haill Intrusions with my E-
 state, for the foresaid Year of—and thereafter, during the con-
 tinuance

tinuance of this Factory, and that Yearly or oftner, as he shall be required; As also, that he be holden to use Diligence for recovery thereof; deducing and allowing to the said B. the Sum of 400 merks Scots of Fee, for his being Factor, and going and receiving the Virtual and Money-rent, and in selling and delivering the same out again, and in satisfaction of his trouble and expences in doing thereof, allowing also to him, that House in———presently possess by himself and his Family, with a Cows and a Horse Grass, to be pastured with my own in Summer, and to have Fother for them in the Winter, conform to a particular Bond granted by the said B. to me, of the date of these presents: Reserving power to me notwithstanding of the Premisses, to modify such amercements of Court and Unlaw, as I shall think exorbitant at my pleasure. Registration.

Factories may not only be granted to uplift Money, &c. but also for other ends and uses, according to the exigent of the Parties, as to sell Lands; and it is thus, With power &c. to meet, treat, and agree with any Person or Persons, that are willing to buy the Lands of C. and Woods growing on the same, and to consent for me and in my Name, to any Vendition of the said Lands and Woods, for payment of my Creditors, that have the best and most effectual Rights on the said Lands, and to subscribe any Disposition for me, and in my Name, of the said Lands and Woods, in favours of any Person that shall give most for them, and also to consent to any Decreet of Sale of the same, that shall be thought necessary and for the satisfaction and payment of his Creditors: With full power to the said B. Factor foresaid, without my presence or consent, to do in the the said Affair, as amply as if I were present, and that without any other consent, than the present Commission, which I hereby declare to be a sufficient security to any Person whatsoever, who shall happen to buy the said Lands and Woods, &c.

Factories are granted, with power to perform the Constituent's part of a Decreet Arbitral, in this manner;—And because there was a Decreet Arbitral pronounced by———upon———determining some differences that were betwixt me and———and there being several parts of the said Decreet Arbitral not fulfilled by me, Therefore with power as the said B. with consent of my Curators above-mentioned, consenters hereto, to fulfill the foresaid Decreet Arbitral in every Article thereof, that is appointed to be done by me, and to grant what Writs, Rights and Warrantice, upon me and my Heirs, as are necessary in order thereunto; Providing always, Tha

my said Sisters fulfil in my favours, their parts of the same Decreet.

They may likewise contain a power, to call Tutors to Court, thus, — And in like manner, with power to the said B. to call and pursue my Tutors to Court and reckoning for their Intromissions, and management of my Estate, during the time of my Tutorry, and to obtain Decrees, and use all manner of legal Diligence, both concerning that Matter, and the exhibition and delivery of the Charters, Writs, Rights, and Evidents of my Estate, Personal and Real.

Because People living in North Britain, may have Business in the South parts of this Island, or in America, to be Negotiated by a Factory: I give you the Form of a Letter of Attorney, as used in these Parts. Know all Men, by these presents, That I A. have made, ordained, constituted and appointed, as I make, ordain, constitute, and appoint B. my true and lawful Attorney in the Province of East-New-Jersey in America, and in the said Province for me, and in my name, and for my self, to ask, demand, call for, and require all Lands, Rents, Goods, or any manner of Stock whatsoever, belonging to me the said A. in the said Province, with such Families and Servants, as the said B. shall cause transport from this Kingdom of Scotland, or else where to the said Province, in my account, or as hereafter shall be sent or transported thither upon my account; Giving, and also granting power to my said Attorney, to sell, let, or dispose of any of my Lands whatsoever, within the limits of any Town or City in the said Province, or else where as the said B. shall think fit; empowering him hereby sufficiently to make such Rights and Titles to any Person whatsoever, to whom he shall let, or otherwise dispose of any of my Land, either in Town, City or Country, within the foresaid Province, as may be good, valid and sufficient, to all intents and purposes, as my self could do, if I were there personally present: And also, to do, perform and execute, all and every other lawful and reasonable acts and Things, as shall be needful, both for obtaining, taking up, or procuring any of my Lands, Rents, Goods, or Stock aforesaid, or for settling, improving, or improving the same, or for Selling, Letting, or otherwise disposing thereof, upon such Terms and Conditions as the said B. shall think fit: Giving, and by these presents granting, unto my said Attorney, my full and absolute power in the Premises: Ratifying and holding firm, all and whatsoever my said Attorney shall lawfully do, or cause to be done, by virtue of these presents. In witness whereof I have hereunto set my Hand and Seal

Sent the _____ day of _____ The sixth Year of the Reign of Queen Anne, over Great-Britain, France and Ireland, &c. Anno Domini 1707.

Of Ratifications.

When Deeds are granted by Persons, who upon account of their State and Condition in civil Society, are not effectually Tyed and legally Obligated, by the Writings which they subscribe. In order to make these Acts and Obligations, or Conveyances valid, Ratification when they arrive at a legal Capacity is necessary; in forming whereof the Writer is to consider the State and Condition of the Granter; if, or not, they be liable to the same Exceptions, as at the time the original Deed was made. And next, the Nature of the Obligation or Deed, that is about to be Ratified; and wherein it was defective.

The Deeds, which need Ratification, are such as are granted by Minors, without consent of their Curators; or when the Curators consent to a Deed whereby the Minors are Lessed, or which are without the bounds of their Administration: As Alienation of Lands without Decree of the Lords of Session. *2do.* Deeds by a Factor, where the Warrant to do these is wanting, or doubtful. *3tio.* Donations, betwixt Man and Wife, must be Ratified by the Granter, after dissolution of Marriage. Now, any thing that is beyond a rational Liferent-provision, in the case that there was no Contract of Marriage, or what is over and above the Provisions and Obligations in the original Contract Matrimonial, are in Law esteemed to be Donations betwixt Man and Wife, and Revokable. Not only so, but Deeds done by the Wife, with consent of the Husband, in favour of third Parties, are liable to Exceptions; and in some measure presumed to be done, more out of obedience, respect, and reverence to the Husband, than out of free-will: So that upon her proving, that she was coerced and compelled to sign the Write, and that she did it of purpose to keep Peace in the Family, and not of Free-will: The same is Reducible. As likewise, to remove all presumption of Force and Fear, third Parties are to use such Writings as Women Ratify their Deeds, in presence of a Judge, while their Husbands are removed from them. *4to.* Deeds granted

red by Persons, who are under Coercion or Constraint, in favours of those who detain them, or who out of fear may con-
cuss them to do these Deeds, must be Ratified, when the
Granters are out of the state of Force, Fear, or Concussion;
otherways the same are Revokable. As for Example, Obliga-
tions or Conveyances, by Persons under Caption, or In-
carcerate, in favours of the Debitor, in Matters extrinsec to
the ground of the Caption, are in Law presumed to be made
metu carceris. And gratuitous or inadequate Deeds, done by
a Person suspected or tainted of any Crime, in favours of a
Minister of State, in whose power it is to prosecute or let fall
the Accusation, are Revokable upon the head of Concussion.
Yes. Persons in the anguish and pain of Sicknes, and labour-
ing under other corporal Infirmitie, whereby they become
easy and exposed to the importunity of designing People; if
in that State, they grant any gratuitous Right or Obligation,
the same is liable to Exceptions, and should be Ratified by
the Granter, when recovered into *liege poustie*.

In this Ratification, you briefly narrate the Write to be
Ratified, and then subsume upon the Cause or Motive of
granting the Ratification, which is various, according to the
State and Condition of the Granter, or defect in the Write;
after which follow the Stile of the Ratification, the words
whereof are, *Ratify, Confirm and Approve*, or more briefly with-
out Narrative or Subsumption, you may proceed directly to
the Clause of Ratification, as in this following Form,

Of a Ratification of a Contract of Marriage by the Husband,
when come to the Years of Majority.

I A. By these presents, Ratify, Confirm and Approve, the Contract
Matrimonial of the date _____ past, and perfited betwixt me
on the one part, and B. now my Spouse, eldest lawful Daughter to
_____ with the special advice and consent of the said _____ on
the other part; in the hault Heads, Clauses, Articles, Obligements,
Provisions and Conditions therein exprest: And I will and grant, and
for me, my Heirs and Successors, declare and ordain, that this Rati-
fication, and Generality thereof is, and shall be as valid and sufficient
to all intents and purposes, as if the same Contract were word by word
inserted and ingrossed herein; Whereunto, and anent all defects and
imper-

imperfections, that may be objected against the validity thereof and the Confirmation of the same I have dispensed, and by these present dispensations for ever: And I bind and oblige me, my Heirs Successors, and Executors, to warrant this Ratification to be good and sufficient to the said B. my Spouse, and all others concerned at all hands, and against all deadly, as Law will. And I consent, that Execution shall pass upon the foresaid Contract, and this Ratification at the Instance of the said ———— and ———— or such of them as shall be alive for the time, and failzieing of them by decess, at the Instance of their Heirs, against me for Implement of the foresaid Contract; and this Ratification thereof in favours of the said B. and the Heirs or Children procreate, or to be procreat betwixt w. Registration

Of Revocations.

IN these Cases where Ratification is needful, to make the Right valid in Law, Revocations are required to make such Deeds of no effect; and that more especially, because taciturnity and silence in a space of Time, hath the effect of a Consent and tacite Ratification: As when a Minor, who has no Curators, grants in Minority a Deed that is quarrelable, which if not Revoked by himself *infra annos utiles*, or by his Heir, is valid in Law. Whereas on the other hand, when a Minor who has Curators, does any Deed without their Consent the same is *ipso jure* null, and needs not be Revoked. And in like manner, Donations *inter virum & uxorem morte confirmantur*: And the same may be said of other compulsory Deeds, where force, fear, fraud or infirmity, was the Cause, or gave occasion to the Contract or Obligation: All which Deeds ought to be expressly Revoked by the Granter in his lifetime. So that except the Granter immediately died after the signeing of such Deeds, his Heir after a certain space of Time or Years, hath not the privilege of Revoking. These Revocations are either Tacite or Express: The tacite, are by doing Deeds contrary to the former; and seeing both cannot subslst. *posteriora derogant prioribus*, or by intenting Summonds of Reduction, of these anterior Deeds. The express Revocations, are by a formal Writting, and Letter of Revocation sign'd. Revocations in Writing are absolutely necessary; when a Major makes a Bond or Conveyance, under the

the Condition, that it shall only be Valid and Effectual, in case the same be not Revoked by him in writing under his hand, at any time in his life, *ac etiam in articulo mortis*.

The Narrative, (where the Deed to be Revoked is briefly mentioned) with the Subsumption and Cause of making the Revocation, (which is various according to the Circumstances of Parties, and Quality of the Right) being premised, the Clause of Revocation followeth; the words whereof are, *Revoke, Cass, Annul, Re-tracts and Rescind*; the most commonly Writers make use of the word *Revoke* alone: As in the following Examples.

Revocation of Deeds in Minority by the Granter, after his perfect Age of 21 Years compleat.

BE it known &c. me A. being now past my lawful Age of 21 Years compleat, Forasmuchas, I during my Minority was moved and induced to subscribe the Contracts, Bonds and Others, after-specified, to wits, _____ (here mention these briefly) together with several other Contracts, Bonds, Obligations, and other Writes, in favours of sundry other Persons; And seeing the same was done by me, to my enorme Hurt and Lesion, and without any necessary Cause done to me for the making and granting thereof, and that by the Law and Practick of this Nation, I may now be Reposed and Restored in integrum against the same. Therefore witt ye me, now being past my said Age of 21 Years compleat, and within the quadriennium utile, to have Revoked: Likens, I by these presents Revoke, the haill Contracts, Bonds, and other Writes, specially and generally above-mentioned subscribed by me in my Minority, as said is, either without or with the Consens of my Curators for the time, with all that has followed, or may follow thereupon; and Protest that I may be Reposed and Restored in integrum against the making and subscribing thereof; and that it may be leifom to me to call for, and recover the Money payed by me by vertue of the same; and for reperision of any Damage or Interest sustained there-through: Conform to the fore-said Privilege of the Law, introduced in favours of Minors. Registration.

Revoca-

Revocation by a Widow.

BE it known &c. me A. Relict of the deceast B. of ———— Con- sidering that not only by the Civil-Law, but also by the Law and Practick of this Nation, all Deeds done by married Women, at the earnest desire of their Husbands *stante matrimonio*, to their own enorme Hurt and Lesion, and butt any necessar Cause, not being Ratified by the foresaids Wives judicially, may be Revoked by them after the death of their Husbands, as being done through the fear and reverence they had to their Husbands, and for entertaining of Love and Amity betwixt them, and consequently may be reduced and annulled after the Revocation thereof; And considering that there was a Bond made &c. (here narrate the Write to be Revoked) and that there were sundry other Deeds done by me with consent of my said deceast Husband, and for entertaining of Love betwixt us, and butt any necessar Cause, and to my enorme Hurt and Lesion, which were never Ratified by me Judicially. Therefore, and to the effect I may be restored against the foresaids Deeds, and obtaine the same, with all that has followed, or may follow thereupon, Reduced and Annulled totally, at least in sofar as the same was done to my prejudice, witt ye me, to have Revoked, Likeas, I by these presents Revoke the Facts, and Deeds, particularly and generally above-mentioned done by me, with consent of my said deceast Husband, or by us both with one consent, in favours of the said deceast C. or of whatsoever Person or Persons: And protests that I may be restored and reponed in integrum against the same, conform to the common Laws and Practick of this Nation. Registration.

Of Contracts, or mutual Obligations and Conveyances, Bipartite, Tripartite, &c.

ALL written Obligations and Conveyances, are founded on expresse Agreements, enter'd into by two or moe Persons, in Law capable; and they are either single, or double and mutual. By single Obligations and Conveyances, is meant, where there is only one Party binding himself, or conveying a Right to the other, who on the other hand has instantly performed his Part of the Agreement; and on that account has got an Acquittance. As for Example; In a Bond

of borrowed Money, the Borrower acknowledges the receipt of the Money, and Discharges the Lender thereof. And in an Assignment, the Cedent, for Causes either presently or formerly fulfilled to him, Assigns and Dispones to the Assignee, and the like, &c. as is clear from the Cases already set down and treated of. By double and mutual Obligations and Conveyances, we understand a Writing wherein the Obligations of both Parties, and their mutual Conveyances are express and set down, which is occasioned, because the mutual Prestation of Parties is drawn into a future tract of Time, so that neither of the Parties can, or do instantly fulfil their Part of the Bargain: And by reason of the Condition of the Agreement, that the one is not to fulfil his Obligation, till the other implement his Part; there must be a Writing formed expressing this Bargain, that Parties be not disappointed; as will appear from the Cases and Examples that follow; and these in our Law, are called Contracts, of which there are two or more Copies signed and delivered, one to each Party. The Words commonly made use of in Contracts are these. *It is Contracted, Agreed, and finally Ended, betwixt the Parties following; to witt A. on the one Part, and B. on the other Part; Or thus, A. and B. on the one and other Parts, in manner following; That is to say, the said A. hath sold &c. for which cause, and on the other part the said B. hath bound and obliged &c. to pay &c. Or between two and one, Or between two and two, thus, A. and B. for themselves conjunctly and severally on the one part, and C. and D. &c. on the other part &c. Or between three and three, A. B. and C. on the one part, and D. E. and F. on the other part. These are called Bipartite Contracts; for how many Persons soever there be on a side, yet there are but two Parties Contracting.*

There may be also Tripartite, or Quadrupartite Contracts, which have three or four Parties Contracting together; and in general, there may be as many Parts, as the Subject of the Contract, and Design of the Parties make needful or convenient, which by sundry Examples in this present Treatise will appear.

The Contracts we purpose at present to treat of, are Indentures, Contracts concerning Moveables; Contracts of Marriage, Tacks and Submissions.

The

The word Indenture, signifies a Writing whereof there are two Copies indented, or cut one of them into two, containing Heads of a Contract or Agreement, betwixt two or more; and generally of old Contracts, what Nature soever they were of, were Indented on the top, answerable to another part in Writing, which had the same Contents. But at present the word Indenture, signifies only a Contract betwixt a Master and one that is to be bound Prentice to him. Because at this time no other Writes but these are in use to be Indented.

The form of Indentures properly so called are various, according to the Nature of the Calling which the Apprentice is to learn: So that an Indenture betwixt a Merchant and his Prentice, which is written by the Clerk of the Dean of Guild Court, differs from the Indentures betwixt the Masters of the several Crafts and Incorporations, and their Prentices; as of Surgeons, Wrights, Malons, Smiths, &c. which again differ among themselves; and these Indentures are commonly written by the Clerk of the Incorporation. Here I shall only give an Indenture betwixt a Writer to the Signet and his Apprentice, which will give an Idea of other Indentures.

AT Edinburgh the 1st of August 1707, It is appointed, agreed, and finally ended, betwixt A. Writer to her Majesty's Signet, on the one part, and B. with advice and consent of C. his Cautioner for his said Son, and taking burden upon him for the said B. on the other part, in manner following; That as soon as the said B. with consent of his said Cautioner, becomes Prentice and servant to the said A. in his Vocation of Writing to the Signet, for the space of three Years next after his Entry, which is hereby declared to begin at the date hereof. Likewise, the said B. with consent foresaid, binds and obliges him during that space, loyally and truly to attend his Masters Service at all times, both by Night and by Day, and not to absent himself therefrom, during the space of his Apprenticeship, without his Masters leave asked and given, under the pain of 40 lib. Scots, to be payed by the Cautioner to the said A. in case of failure. And that he shall not willingly hear, nor see his Masters Shaiab, in his Name or Goods, but shall binder and impd the same to his masters and timously acquaint his Master therewith, and that he shall not under the said penalty reveal or divulge any Writs or Affairs, where-

which he shall be entrusted by his said Master. And also the said A. binds and obliges him to instruct the said B. in the foresaid Vocation of Learning, during the space above-rehearsed, and to conceal no part thereof, so far as his capacity, is able to receive. For the which cause, the said C. has presently made payment to the said A. of the Sum of 100 merks Scots Money, in name of Prentice-Fee with the said B. whereof the said A. grants the Receipt, and Exonerates and Discharges them, their Heirs and Executors of the same. And if it shall happen the said B. to defile his Body with Whoredome during the time of his Apprenticeship, in that case, and immediately thereafter, it shall be lawful for the said A. to put him from his Company and Service. And likewise, the said B. and his said Cautioner, bind and obliges them, conjunctly and severally, their Heirs and Executors, to refund to the said A. his Heirs and Assigns, all Damage, Expence and Interest, he shall happen to incur through the default of the said B. or through his not dutiful attending his Masters Service, or through any omission or wrong that shall be omitted or done by him. And further, the said B. binds and obliges him and his foresaid, to warrants &c. the said C. his Cautioner above-named, of his said Cautionary, and of all Cost &c. Registration.

Contract of Communication of Goods, Moveable and Heretable, betwixt the Heir and Executor.

AT the _____ day of _____ Years, It is agreed betwixt A. on the one part, and B. his Sister on the other part, as follows; To witt, Forasmuch as, albeit the said A. be nearest and lawful Heir to the deceased C. their Brother-German, yet in regard he is willing to divide and communicate with the said B. his Sister, any benefits that he can have by the foresaid Heirship, and the Executors and bail Moveables, are likewise to be equally divided betwixt them. Therefore the said A. now as if he were already Served and Returned Heir to the said C. his Brother, and then as now, by these presents, Assigns and Disposes to the said B. his Sister, her Heirs, Executors or Assigns, the just and equal half of all heretable Debts, and Heirship, that belonged to the said C. the time of his decease, Disputing with the generality, and admitting the same to be as valid, as if every particular of the said half were specially mentioned and expressed. Restoring always the other equal half of the said heretable Debts, and Heirship, to himself. And on the other part, the said B. Assigns and

and Disposes to the said A. his Heirs, Executors or Assigns, of Right whatsoever, that she as Executor or nearest of Kin to the said C. can have to the Equal half of the moveable Debts, and Sums of Money, that were due, and pertained to him at the time of his death, and that as well of these that are particularly mentioned in his Confirmed Testament, as of what may be omitted forth thereof; Dispensing likewise with the generality &c. as (above): Reserving to the said B. her self, the other just and equal half of the said Executors, and Moveables: And both Parties do oblige themselves, their Heirs, Successors and Executors, to grant, subscribe, and deliver to others, such particular Rights and Assignations, as shall be required for extending of this Agreement whensoever they shall be desired; with warrantice from their own respective Facts and Deeds. And likewise they oblige themselves and their foresaids, hinc inde to others, to bear equal burden; and to relieve one another of any prejudice may be sustained by the Representing the said C. as Heir or Executor, each of them for their own equal halves thereof.

A Contract and Agreement betwixt the Heir, Executor, and Relict of a person Deceas'd, concerning the Partition and Settlement of his Fortune; which consisted of moveable Sums lent out upon Bond for Annualrent, was Thus. At ——— It is agreed betwixt A. Heir, and one of the two Executors to the Deceas'd W. his Brother-german, and B. Sister-german, and the other Executor Confirm'd to the said W. on the one part; And C. Relict of the said W. on the other part as follows, to wit. That the Bonds after-mentioned, which belonged to the said W. shall all of them be presently deliver'd to the Register by the said C. viz. (here the Bonds were briefly enumerated) And that there shall be two Extracts thereof taken out of the Register, and one of the said Extracts of each Bond, shall be deliver'd to the said A. and B. and another Extract thereof to the said C. As also, the said C. Binds and Obliges her to deliver to them, a Bond dated &c. (here several writs, which were to be delivered, were set down.) And it is agreed betwixt the said parties; That the expence of the Registration and Extracts of the foresaid Bonds, shall be payed out of the first and readiest of the Annualrents of the principal Sums above-mentioned that were resting to the Deceased W. at the Term of Lammas, immediately preceeding his Death. And in like manner, the said A. and B. as principal, ——— as Cautioners, and Severties for and with them, Bind and Oblige themselves Conjunctly and Severally both

Principals and Cautioners, their Heirs, Executors and Assigns:
 That they shall not Uplift any of the principal Sums above mentioned,
 that were due to the Defunct at the time of his Death, nor any of the
 Annualrents thereof that were Resting at the Lambmas preceding
 the same, without consent of the said C. Liferentrix thereof. And
 that they shall immediately re-employ the same when Uplifted, like-
 ways with her consent, and take the Securities thereof to her in Life-
 rent; and to the said A. and B. their Heirs, Executors or Assigns
 in Fee: And how oft the same, or any part thereof shall happen to be
 Uplifted, The Principals and Cautioners, Bind and Oblige them,
 Conjunctly and Severally, and their foresaids, immediately to re-emp-
 loy the same of new with consent, and to the effect before mention'd.
 And moreover, it is agreed betwixt the said parties, That the Debts,
 which were due by the Defunct, and his funeral Expences, and others
 contained in a particular List thereof, subscribed by them both, with
 the Expences deburs'd in the Confirmation of his Testament and the
 Sum of ——— hereby allowed to the said C. for her Mournings, and
 for the Maintainance of her self and Family, from the time of her
 Husband's death, till the term of Candlemas 1707, shall be payed
 out of the bygone Annualrents, that were due to the Defunct preced-
 ing Lambmas 1706, and the whole remainder of the said Sums,
 both Principals and Annualrents, after deduction of what is hereby
 appointed to be payed out of them, is to be lent out, and the Securi-
 ties thereof to be taken to her in Liferent, for the implement of her
 Contract of Marriage, and subsequent Provisions, granted to her by
 her Husband, and to them equally in Fee, as is before express'd: And
 if any other Debts resting to the defunct shall be recovered, they shall
 be applyed and employed accordingly. And for obviating and pre-
 venting all differences that may fall out betwixt the said Parties, It
 is agreed, that the said C. is to have the Liferent from, and after the
 term of Lambmas 1706, of all the Money belonging to her Hus-
 band at the time of his death, and the Fee of the whole is to fall e-
 qually to the said A. and B. and their foresaids, and she is to claim
 no part of the Fee thereof, by vertue of any Clause contained in her
 Contract of Marriage, or by vertue of any subsequent Right made to her
 by her Husband: And both parties, and the said Cautioner for A.
 and B. Bind and Oblige them hinc inde to others, to Observe, Per-
 form and fulfil the Premisses each of them to others, according as
 they stand Bound hereby. And the Party failzier to pay to the other
 Party, the Sum of ——— Scots Money of Penalty, by and attour-
 nance of the Premisses. Registration

Accord-

According to the various occasions of Humane Society, the the Designes and Undertakings of Men, which cannot be defin'd, there may be as many Contracts, in which nothing more is required than in proper words of Style, distinctly to set down in good order the meaning of the Parties. In these forms of Writings, there are Obligations to perform a Deed, work a Work, or pay a Sum, as the Hire of the Workman, or Reward of the Undertaker, where the obligatory words of Style are used. And in Sales the words in Dispositions, Assignations &c. are made use of, for knowing which formes, the Student may make collections of Writs of that kind, to instruct himself in the Art of making profitable bargains, according to the various occurrences in Humane-Life; For examples sake, I shall give the draughts of a Contract of Victual, a Contract of Sale of a Wood, from which one may observe the cautions to be used in making such sort of Bargains: And when a Gentleman or Student meets with a Contract, that expresses a well made Bargain, where the Parties norie'd the minutest circumstances that might occur, and obviated all possible inconvenients; I'd recommend to him, to past that Writting into his Book, to serve him on the like occasions, which he may do in the manner I shall give him a President for.

A Contract of Victual, is in this Form.

AT ——— It is agreed betwixt A. on the one part. And B. and C. on the other part, in manner following, That is to say, The said A. has Sold and Disposed, and by these presents Sells and Disposes, and obliges himself his Heirs and Successors, to deliver to the said B. and C. equally betwixt them, their Heirs, Executors or Assignes, the number and quantity of 700 Bolls of Bear, of the said A. his Farme-bear, of D. E. and F. for the Crop and Tear of God 1707. being sufficient Stuff; Which Victual the said A. Binds and Obliges him, to cause his Tenents carry, in their own Sacks, upon their own Horses, and upon their own Charges, to the said B. and C. or any person having Warrant from them, or either of them, to Edinburgh, Leith, or the Water of Leith, or any place of the like distance: And that betwixt the date hereof, and the ——— day of ——— next to come, butt longer delay; with the Sum of ——— Scots Money, for every undelivered Boll thereof. And on the other part,
The

the said B. and C. bind and oblige themselves, each of them for their own just and equal parts, (or conjunctly and severally, if it be so agreed) their Heirs &c. to content and pay to the said A. or any having his order, the Sum of two *Rix-dollars*, for each *Boll* of the said *Fern* that shall be delivered, or offered to be delivered in manner above-specified, and that at the Terms and by the Proportions following, *viz.* Of the one just equal third part thereof at the Feast of *Pasch* next to come: And of another just and equal third part of the same at *Whituesday* thereafter: And of the last third part in compleat payment of the said Bargain, at the Feast of *Lambmas* in the instant Year 1708. butt longer delay: With the Sum of 100 *merks* Money foresaid of liquidate Expence for ilk Terms said, and with the *Annuitrent* of the said principal Sum, so long as the same shall happen to remain unpaid after the respective Terms of payment above-written; butt prejudice of suing Execution hereupon at the said respective terms of paymout, for what shall be then payable, or any time thereafter, without requisition.

The Clause of Vendition in a Contract of Timber, is in this, or the like Form.

A. Sells and Dispones to and in favours of B. his Heirs or Assigneys, the haill growing Timber, both Oak, Ashes, Elmes, and other Timber, growing within the said A. his Woods and Dykes of ——— together with the haill growing Timber upon the bounds of the said Town, except what was growing within the Tenours Yards (and the generality of this Clause was to be, conform to a particular Bounding to have been subscribed in a Paper per se by both Parties) with the Bark and Bulk thereof, lying within the Parochin of ——— and Sheriffdom of ——— with power to him to Fell, Cut, Lead, and away rake, the said haill growing Timber, Bark, and Bough thereof, within the precinct and bounds of the said Woods, sell, use, and dispose upon the same at their pleasure, and with free entry and entry, for felling, cutting, and away-taking, of the same Timber and Bark, for the space of five Years after their entry to the Cutting of the same, which is declared to have begun to the Cutting of Oak at the fifteenth day of April next to come, and to have continued in the Cutting of Oak Yearly, to the 10th of August: and to Cut any other Timber in the said Woods, at any time of the Year, they always reserving the Stock of the Wood in so far as they were able; and

and so forth in writing in writing, the said Lord and all the said
 they shall be bound to do and have the said Lord's part and obligation
 to pay a Penny for every hundred, which the said Lord's obligation
 shall and he shall be bound to do and have the said Lord's part and obligation
 Hares of the said Woods, which, in the Year next to be, the said
 A. shall always make the Wood-ward to be bigger upon his own
 Expenses, and also furnishing to him the Carriage of 80 Bluses
 yearly in Sailing or Perch, for transporting of the said Wood, each
 Horse carrying always six Hundred Bushels, under the penalty of 10 Sh.
 for each deficient Horse: As also the said A. obliges him and his
 forefathers, not to Cut any other Timber in that Baruch during the
 foresaid space, excepting what is for his own use at all times, and in
 case of War, Famine, or Pestilence, it is specially shewed by both
 Parties, that then and in that case, the Terms for Cutting, and the
 Terms of Payment corresponding, were prolonged and suspended, ac-
 cording and conform to the time and years, they should happen there-
 by to be stopped and impeded. In this Contract, beside the pe-
 nalty, in not timely payment of the price, there was a mu-
 tual one of 200 merks, to be payed by the failzie to the ob-
 server.

Of Contracts of Marriage

MARRIAGE is a Conjunction of Man and Wife, with pur-
 pose to live inseparably together till death.
 From this conjugal Society, arises the Communion of
 moveable Goods between Man and Wife, the Administration
 whereof belongs to the Husband, which reaches even to Ali-
 enation: For by Law, Marriage is interpreted to be a legal
 Disposition, by the Wife to the Husband, of all her move-
 able Estate, in which nevertheless, Sums of Money bear-
 ing Annualrent are not comprehended. On the other
 hand, the Wife's Right to her Husband's moveable E-
 state is during their mutual Lifetime dormant: but in the case
 of her survivance the Law gives her the half of her Husband's
 Moveables, free after payment of Debt, in case there be no
 Children, and in case there be any, she gets but a third. I
 speak not here of the Right, which the Husband has by Law,
 in the heretable Estate of his Wife, neither of the Interest the

the Estate in her Husband's real Fortunes, in case of her death, should be settled, so that there be no Discourse of it, until it be necessary when we Treat of real Rights. In general our Authors may observe, that the Legislators in the most Civilized places of the World, have Regulated this conjugal Society, in what concerns the several Rights and Estate of the Married Couple, and have provided, that the Fortune belonging to the Woman, should contribute towards the supporting the Charges of a Married state; and also that after the Husband's decease, the Woman be not left destitute, but be made partaker of a share of the Husband's Means in such manner, as is necessary to make her live comfortably. And this legal Provision only takes place, when there's no Contract or Agreement betwixt the Parties, by which the determination of Law may be altered; for in this case, as in sundry others, *provisio humanis tollit provisionem legi.*

This Contract expresses the Conditions of the Marriage; for now a Days, Interest has a greater hand in making Marriages, than Love founded on a virtuous Friendship, contracted by a long acquaintance; and Men first satisfy themselves about the Estate and Fortune of the Party, before they begin to love their Person. These Provisions or Conditions are various, according to the Quality, Circumstances, and Intention of the Parties, which are infinite; only it is to be observed, that such children as marry with the Consent of their Parents or Kins-folks, are for the most part well provided for, and out of danger of being imposed on. In regular and solemn Marriages, which is the most honourable way of Marrying, sometime the Contract is sign'd before Solemnization; and it is advisable, in order to avoid many inconveniences which may happen, that this be done before the Banns were proclaimed in the Church.

All Contracts of Marriage are of this or the like Stile, in the beginning. *At Edinburgh the first day of August 1707, It is Accepted, Contracted, and matrimonially Agreed, between the undersigned following, to wit, A. (the Man) on the one part, and B. (the Woman) on the other part, in manner following: That it is to say, the said A. and B. have accepted and taken, and by these presents accept, and take each other for their lawful Spouses, and bind and oblige themselves, to solemnize and compleat the holy Bond of Mar-*

*Marriage together, with all requisite solemnities. In contemplation of the which Marriage, and for the better performance thereof, here are placed the Obligations on the part of the Man, who if he be not a Landed-Man, is obliged to provide a Sum of Money of his own Means; and to employ it in Land or good Stocks, and to take the Rights to himself and Spouse, or to the Children of the Marriage in Fee. In this place, the Provisions in favour of the Children, is insert. After the Obligations on the Man's part, follow those on the Woman's, who, if she have neither Father or Mother, or Brother, who is her Tutor, her, she is the principal Obliger herself, and her part is ordinarily an Assignment to her Tutor or any other of Money, in this Stile, *and as she shall think proper to do by these presents Assign, &c.* The last Clause in all Contracts, according to the present Stile, expresses the Names of the Friends at whose instance Execution is to pass, either against the Husband for implement of the Provisions in favour of the Wife and Children, or against the Woman for fulfilling her part. And this because, by our Law, while the standing of the Marriage, there can be no Action, at the Man's instance against the Wife, & vice versa. Here I only treat of Contracts of Marriage betwixt those who are not Landed Persons, of which take the following Examples.*

A—*Sec. In contemplation of the which Marriage, the said A. binds and obliges him, his Heirs, Successors and Executors whatsoever, to provide and secure the said B. by promised Spouse in Lifetime, during all the days of her life, in and out of all Annuals or yearly Duty of 500 marks Scots Money yearly, free of all burdens whatsoever, and that by his own Money upon what Land, or in the hands of sufficient persons, and taking the Securities thereof to her in Lifetime, at the will and by the advice of C. And if the same shall be employed upon Land, to procure sufficient Confirmations by the Superior, and by own Expenses for her security thereunto, and if any Doubt should arise in that purpose shall happen to be clarified, all off to re-employ the same, by the advice and to the effect above-mentioned: And for further security, the said A. binds and obliges him and his Heirs, to make due and thankful payments to the said B. of the said An-*

...with such Pearls, Diamonds and Jewels as now belong to
her, which she be lawfully referred to dispose of in favour of
any Person she pleases, without her consent, in such sort shall be no
Children. And he obliges himself and his forefairs to ratify, and
if need be, renew any Right that shall be Granted by her thereto:
Which Provisions abovementioned in favour of the said B. she by
this presents, accepts in full satisfaction of all Terce and third of
Lands, or third or half of Moveables that may fall to her by her Hus-
bands Death or which her nearest of kin can claim by her own Death,
in case be living her. And on the other parts The said B. by
this presents, Assigns and Disposes to the said A. by His or Affi-
davit (including his Exceution) the Sum of 1000 Merks Scots
Money of principal, with 100 Pounds of liquidate Expenses, and
the Annualrent of the said principal Sum, during the not pay-
ment after Lamballs in this Instant Year contained in a Bond Grant-
ed to her by _____ a Principal and _____ a Cautioner, Conjun-
tly and severally, of the date _____ with the Bond itself, and all
that has followed, or may follow thereupon: Surrogating and Sub-
stituting the said A. in her full Right and Place of the former for ever,
which Assignment she Binds and Obliges her, her Heirs and Exce-
utors, to Mar and from all Fairs and Deeds done, still to be done by
her or her forefairs prejudicial hereto alienably. Likewise she hath
instantly delivered to him the Bond Unregistered, to be kept and
Used by him and his forefairs, as their own proper Evidence at their
pleasure in case coming. As likewise, she Assigns to him and his
forefairs, the Plea and Breve Depending, at her and the rest of her
Sisters and Brothers Instance, against _____ Merchant in Rot-
terdam, for the number of 8000 Rex Dollars: And that in so far as
concerns her part and proportion thereof, and all Acts, Decrees and
Interlocutions, past or to be pronounced and past in her favour
and all benefits that may redound to her thereby be always bear-
ing a proportional part of the Expenses debited, or that
shall be debited in that Process. And farther she Assigns to him
and his forefairs her Part and Proportion of all other Means and
Money to which she has Right from her said Decedent Father or Un-
guishable _____ her Mother, and to all Bonds and Securities Grant-
ed to her by her Decedent Father and Mother conform to the Law of Hol-
land in manner mentioned in her Mothers Testament, and what
Writs Granted by her Fathers or her for this effect. And for payment
whereof, she may affect any Lands or Estate belonging to her said

Father; and all Writs and Rights Made and Conceiv'd, or which may be interrest in his Estate, notwithstanding Disputing with the generalities; And which she obliges her and her assigns, to Warrant in manner above-written. Nevertheless, that what shall be recovered of her, proportion of the Debt, due by the said _____ and of any other Means to which she has Right from her Father or Mother, or whomever she may assert her Father's Estate, shall be secured by the said A. to the said B. in Liferent, during all the days of her Lifetime, and the Fruits thereof to the Children of her Marriage; which seizing to the said A. in Heirs and Assigns whatsoever. And that by and attour the provisions above specified, And lastly, it is agreed, that Execution shall pass in this Contract, at the Instance of the said C. for Imploiment thereof, in favour of the said B. and the Children of the said Marriage. Registration &c.

In another way, thus.

IN Contemplation of the said Marriage, and for the Tocker after-mentioned, the said A. by these presents, Binds &c. to Provide and have in readiness, of his own proper Means, the Sum of 40000 Marks Scots Money, and to add and give the same to the Tocker after-mentioned, which with the bygone Annuitants thereof, hereby Assigned, extends to 10000 Marks, making in all the Sum of 50000 Marks Scots Money fore-said, and to have, Enjoy and Possess the same upon Land, or in the hands of sufficient responsible Persons, at the sight and by the advice of (the Womans Friends nam'd) and to take the Securities of 40000 Marks Scots Money, and his said promised Spouse, and longest Interest of them two, for her Liferent-life, under the strictest restriction aforementioned. And to the Children to be Progeny between them, after their Decease, which seizing to the said A. in own Heirs and Assigns whatsoever. And farther, he Bound and Obliges him, and his assigns, to employ 10000 Marks Scots upon Land, or in the hands of sufficient responsible Persons, as the Rule, and by the advice above-written, and to take the Securities thereof to himself, and seizing of him by Decease, to the Children to be Progeny of this Marriage, which seizing to his own Heirs or Assigns whatsoever. With Sum of 20000 Marks to be divided among the said Children, as the said A. in his own time shall appoint; and if he shall make no such division, the same to fall equally among the Children.

Children, allowing to the eldest of a Son ~~the said~~ ^{the said} Merks more than any of the rest, and ~~the said~~ ^{the said} Merks above specified. It is hereby declared, That if the said B. shall survive the said A. and that there shall be Children of the said Marriage: In that case, her Lifetime provision above specified, is to be restrained to 2800 Merks Scots Money yearly, to be paid at two Terms in the Year, Whitsunday, and Martinmas in Winter, by equal Portions, beginning the first Terms payment thereof, at the first Whitsunday, or Martinmas next, and immediately following. And so forth Terms thereafter during her Lifetime, and the surplus of the said Annualrent of the 40000 Merks is to be given by her, and to belong to her said Children. Declaring nevertheless, that if the Children shall happen to Die before their being Married, in that case, she shall recur, and have Right to the Annualrent of the said half 40000 Merks from and after their Decease, during her Lifetime: Which Liferent Provision, the said B. with consent foresaid of her said Brother, by their presents, accepts in full contentation of all Tenors, thirds of Land, third or half of Moveables or any other thing that may fall, or belong to her, or which she may any way claim, by and through the Decease of the said A. her promised Husband, in case she shall survive him, or which her Executors or nearest of Kin can claim by her own Decease, in case she shall happen to Die before him: Except the equal half of the household plenishing, that shall belong to him, the time of his death: without deduction of the movable plenishing, to which half she is to have right, in case she shall outlive him, to be entertained with, used and disposed upon, at her pleasure, free of all debts and burdens whatsoever.

If the Parties be Persons of quality, you say, It is agreed between the honourable Parties following.

The consent of Father, Mother or other Friends, is then — A. 2d Son to B. with the special Advice and Consent of his said Father, and of C. his elder Brother, and the said B. for himself, and them all with one Consent and Assent on the one part. And D. 2d Lawful Daughter to E. with the special Advice and Consent of her said Father, and of H. her Mother, and of his eldest Son her Brother, And the said E. and F. for themselves, and taking burden upon them for the said D. and them all with one Consent and Assent on the other part.

In some Contracts, the Father takes burden for his Son, which is indispensibly necessary, when the Son is a Minor.

Some

Some writers set down a Statute which is the same
that is in the Statute of this kind, with this difference, that
it is made in the Statute of this kind, which is the same as I have
seen also a penalty in case of failure, but that is not the case.
What is provided is provided to Barren of a Marriage, but
to consider of Succession and to determine, if an Estate, which
the Husband may succeed in, shall be provided to the said
Male or Female; In the Contract of Marriage, he wist
and ——— it is provided, that the conquest shall remain, in the
remainder of the Marriage, but the Estate of the Father, to which the
Husband being born a 2d Son, might in process of time succeed, is
expressly excepted.

1. A Wife in her part of the Contract of Marriage having, among
other Sums Assigned her future Husband to certain Law-
Suits, which were briefly narrated, And because she was pro-
vided to the Lifetent of what should fall to her, during the
Marriage, by and attour her other Provisions, It is provided,
That what shall be recovered of her Provision of the Debt due to
—— or of any other means, to which she has Right from her Fa-
ther, Mother, or whomever she may affect her Father's Estate, be re-
covered by the said A. (the Husband) to the said B. (the Wife) in
Lifetent during all the days of her Lifetent, and the Children of
the Children of the Marriage: Which falling to the said A. by
Heirs and Assigns whatsoever, and that by and attour the Provisi-
on above specified.

2. If there be many Bonds and Sums belonging to the Woman,
in her part of the Contract, they are particularly set down,
and Assigned in common Form, the Assignment is a full Style.

3. In a Contract where the Woman Contracted, with con-
sent of her elder Brother, who being in Law, obliged to Take
care, at last, to fulfil his Father's Provisions, this was ad-
vised to the benefit of the Brother. ——— And which Sums, a-
bove assigned, shall fall to B. (the Woman) with consent of the said A.
(her future Husband) by these presents accept in full satisfaction of
all that might fall to her, by the Decree of her said Father any man-
ner of way.

4. By the custom of this Kingdom, if within year and day the
Marriage dissolve, there not being a living Child of the Mar-
riage Born, all things return to their former condition, as if
there had no Marriage nor Contract been. But this incon-

[The following text is extremely faint and largely illegible due to the quality of the scan. It appears to be a list of names and possibly dates or locations.]

To supply the want of a Contract in the Marriage, the Married Couple, notwithstanding the same Tender with an Anticipation of Contract, will, so far as the Provisions are rational, will have the same observance of the Conditions. This Position is not different in nothing almost from the other laws of the nature, as will appear from the following Example.

Thus if a man, let A, on the one part, and B, on the other, with Advice and Consent of C, her Brother; And the same for himself on the other part. That is to say, Forasmuch as A and B are already Married; Yet there having been

and business between them. The said B. is not sufficiently Secured in my Joyner, nor are the Children of the Marriage Provided, or a Towar given to the said A. according to the Custom and Agreed upon betwixt the said Parties, before and at the Marriage. In contemplation whereof, and of the Towar after-mentioned. The said A. Obliges him &c. as in an Antenuptial Contract. For which cause, the said C. Obliges himself to make payment to the said A. in nature of Towar &c. in common Form as above.

Of Tacks and Allocations.

A Tack is a Contract of Location, whereby the Proprietor Sets to another Person the use of any thing, during a certain space of time, for a certain Hire or Duty.

Our Law requires necessarily in a formal Tack, that it contain the denomination of the thing Set, that it express the Entry and Ith, That is, when it should begin and end: And also the special Tack-duty, and time of payment thereof.

Any thing may be the subject of a Tack or Location, which in the use thereof, may be profitable to our Neighbour, *Salva rei substantia*, as Mens Labour, Moveables, both Dead and Living, Lands, Tenements; But when Men are Hired for daily Labour, or Horses Hired for a Journey and the like, one seldom puts the agreement into Writing; tho' Bargains for framing a work of considerable value, as Building of a Ship, of a House, or the like, are in use to be Comprisd in a Contract, where the Conditions of the Agreement are set down and expressed, whereby they're best kept in memory, and observance: an Error, Mistake, or Forgetfulness of the least of these, being of no small consequence to either Party, to give an Idea on this sort of Contract, I shall set down one That was made for Building a Bridge over a River.

THE Obligements on the Massons part, were to Build a Bridge upon ——— consisting of two Bowes, each Bow 24 Foot of Widthness, the Quinzies of the Bend of Free Stone, with a Millpit of Free Stone, with a Pean on Rock upon the Current of the Water, and to make sufficient Landstables for Man and Horse, to Go and Ride upon the same. And to Build upon each side of the Bridge, next to the

the Current of the Water, 15 Feet of Wall next the Draw: And to make it 4 Feet of Height from the Foundation of Dry Stone, and to lay some great Stones about the middle Pillar, for defending it from the Ice: And to Build the said Bridge Ten Feet broad, and to Gather it all over, from the one end to the other, and to Build Ledger Ribs, and to Cope them with Free Stone, and to Barr them sufficiently with Iron, and run the samer with Lead, and to Build a Pend between ——— and ——— upon the Gotes, So that there may be free Passage to the Bridge, and to Flagg other three Gotes. And to Build an other Bridge over ——— of two Bows, and a blind Bow, and to Flagg the rest of the Gotes, and to cast Chingle upon them, and make the way Passable; and to Repair another Bridge, and to help some of the Key Stones which are defective, and to put Spouts for carrying away the Water off the said Bridge, and to take down the Beck of the middle Pillar of the said Bridge, from the top to the bottom, and to Build it up of new, and to put in a great Iron Gadd from the bottom of the Water, to the top of the Beck, with a number Branches going out, which is to be Barr'd in with Lead in the Stones, and to Barr as much more as is thought convenient. And the Gentlemen on the other part, Bound themselves to pay the price agreed upon at 3 Terms, one was at the beginning of the Work, the other at the middle of the Work, and the last was at the finishing, and out-redding the said Work.

And the Heretors Living in the places where these Bridges were to be Built gave an Obligement, in a paper a part of this Tenor: Binding themselves each of them, for their own Parts and Proportions, according to their valued Rent within these Parishes, to furnish Horse and Men, for carrying of Iron, Timber, Lime and Lead to the Works, for Building and Repairing the said Bridges, according to the former Contract, and to bring them within an Ell of the place where they are to be made use of, if it can be conveniently done for the ground about them: With this condition, That the said Materials are to be Provided, and Bought up by the Massons, either at S. or A. or both. And the Heretors were not Oblig'd in Carriages from any other places: And these Carriages were to be call'd for at seasonable times, and not in Harvest. And the Heretors Bound themselves to Meet, and Stent every Man's proportion of the said Carriages: And the Order according to which they should be called for; And to deliver this cast to the Massons above-nam'd. And the Heretor who was to be deficient in his Carriages: So that the Massons should thereby

by Idle through want of Materials, Bound themselves to pay the Sum of 10 lb. for ilk Day they lay Idle for want of Carriages: But in case War, Famine, and Pestilence, should fall out in the Country, (God forbid) whereby the Heralors would not be able to perform these Carriages and Services. In that case, it was not to be imputed to them as any breach of this Agreement; neither were they liable to Payment of the Penalties.

The word Tack with us is only in a proper use of it, applied to signify, a Location of Lands or Tenements, which is in the following Stile. *It is appointed, agreed, and finally ended, betwixt A. heretabte Proprietor of the Lands and Others under-written on the one part, and B. on the other part, in manner following, That is to say, the said A. has Set, and in Tack and Affedation letten, and by these presents Sets, and in Tack and Affedation for the yearly Mail and Duty under-written, Lets to the said B. his Heirs, Executors or Assignes, being of no higher age than himself, All and Hail, the Lands of _____ with Houses, Buildings, Yards, Our-field, In-field, Mosses, Mures, Meadows, Common-pasturage, Parts, Pendicles, and Pertinents thereof, at the same were last possesst by _____ all lying within the Sheriffdom of _____ together with the Tiend-shaves, and other Tiends, Parsonage and Vicarage, of the Lands and Others foresaid; and that for all the Days, Space, Years and Terms, of 19 Years next and immediately following the said D. his Entry thereto; which is hereby declared to have been and began at Whitsunday last bypast in the present Year 1707, and from thence forth to endure, and to be peaceably Enjoyed and Manured by the said B. and his foresaid; in the same way in breadth and length, with free Use and Entry to and from the same, and with all and sundry Priviledges, Rasmens and rightous Pertinents whatsoever, freely, quietly, well and in peace, him Reddication. Which Tack and Affedation the said A. binds and obliges him, his Heirs and Successors, to warrant, acquiet and defend, to be good, valid and sufficient to the said B. and his foresaid, at all hands, and against all deadly. For the which Tack, Lands, Tiends, and Others above-rehearsed, the said B. binds and obliges him, his Heirs, Successors, Executors, and Intromitters with his Goods and Gear whatsoever, to make due and thankfull payment to the said A. or to his Factor and Chamberlain, or any other Person whom he shall appoint for that effect, of the bail Sum of _____ Scots Money for the Lands of C. and of the Sum of _____ Money foresaid for D,*

at the Terms in the Year Whits. and Mart. by equal portions, beginning the first Terms payment at Mart. next, and the other at Whits. 1708, for the Year preceeding, and so forth Yearly and Terms thereafter, during the continuance of the Tack. And in like manner the said Bonds and obliges him and his foresaid at the expiring of the Tack, to leave the Houses in a sufficient Condition and at the expiring thereof, to sit and remove himself, his Family, Coffers and Servants, Goods and Gear, forth and from the Lands and Others above mentioned, and leave the same void and rid, to the effect that the said A. and his foresaid, may enter thereto without any warning or process in Law; And both the said Parties bind and oblige them, and their foresaid, to observe and perform the Premises to Others, and the Party failzie to pay to the other Party, the Sum of 500 merks Scots Money of liquidate Expences, by and attour performance of the Premises. Registration.

Besides a simple Duty either in Silver or Victual, the Rent may be in Silver and Victual jointly, and also the Tenent bound to pay publick Burdens, or Ministers Stipends, with Thirlege to a Milne, &c. which is thus expressed.——To make payment of 200 merks at two terms in the Year Whits. and Mart. by equal portions, beginning the first terms payment at Whits. next to come in the Year 1708, and so forth Yearly and Terms thereafter, during the continuance of the Tack, with 6 Bolls good and sufficient Meal, and 6 Bolls good and sufficient Bear Yearly betwixt Yule and Candlemas, beginning the first Term payment of the said Victual betwixt Yule 1707, and Candlemas 1708, and that for the Crop 1707, and so forth Yearly thereafter during the Tack; together also, with the Sum 20 l. Scots Money of Teind to the Minister of——— and to deliver Yearly to the said A. or his foresaid, sufficient discharges thereof; together with the Multure and Services to the Milne of——— used and wont to be paid by the Tenents of the said Lands, and to pay out and advance the half of all publick Burdens imposed, or that shall be imposed upon the said Lands, during the time of this Tack; (or thus, to relieve him of the equal half of all publick Burdens that shall be due and payable forth of and for the Lands, Teinds and Others, contained in this Tack, during the continuance thereof, and to advance the said publick Burdens as they shall happen to fall due, he getting allowance of the other half thereof, out of the first end of his Rent) and to pay the Officer's Fee, Damm-silver, Multure Bear, and other Casualties incident to the said Lands.

The

The Tenant, getting the Houses good and sufficient, is bound to leave them in as good a Condition; yet this is not always so; for clearing matters of Controversy about the Houses, I have seen this Clause in a Tack, And for removing and preventing all differences that may fall out about the present condition of the Houses upon the Land contained in this Tack; It is agreed betwixt the said Parties, that the same shall be sighted and pressed presently by four honest Men, two to be chosen by either Party, and they are to be again sighted in the same manner at the expiring of this Tack; and if they shall be found to be worse, the said B. and his forefairs are hereby obliged to make them in as good Condition, and to leave them so then as they are found to be now; and if they shall be found to be better then nor at this time, in that case the said A. is to pay in to the Tenant the superplus, more than they are pressed to at this present time, not exceeding the Sum of 100 l. Scots.

I have seen this Clause in a Tack, after the Clause for leaving the Houses tight; And in regard the said B. gets the Bail Fillzie upon the Ground of the said Room, for the labouring of the Bear-land, and likewise an Hay-stack of 100 fashons; Therefore he binds and obliges him and his forefairs, to leave as much Fillzie upon the Ground thereof, with another Stack of Hay of the like Quantity, as the expiring of this Tack, as he now receives.

Some Tacks have a Clause for either Party to be free within a certain number of Years, and an Irritancy against the Tenant, if he suffer two Terms Rent to run into a third unpaid which is placed before the Obligation to remove; thus, And likewise it is agreed, that both Parties shall be free of this Tack at the end of the first five Years thereof; they always giving timely advertisement of their intention, three score days preceding the Term, at which they intend to be free. And it is hereby agreed, that in case two Terms of the said Silver-duty shall run in the third unpaid, when and in that case, it shall be lawful to the said A. to remove the said B. or his forefairs, from the Lands and Osbers above-mentioned, and to set and dispose otherways thereupon as he shall think fit; This Tack being in that case to become from thence forth null and void.

Some Masters, to keep their Tenants from spoiling the Ground by undue Labouring the same, oblige them to Till and mannage the same in a certain manner prescribed to them in the Tack, and to preserve the young Timber planted upon the Ground.

The Tack of a Dwelling-house differs not much from the former, and is thus, Sett, and for the Mail and Duty under-writers in Tack and Affodation, lets to the Said B. his Heirs, Assignes, and Sub-tenants, one or more, his Dwelling-house presently possessed by C. lying &c. And that for all the Days, Years and space of five Years next and immediately following his Entry thereto, which shd begin at Whit next to come. Clause of Warrantice. For the which Tack and Affodation, the said B. binds and obliges him to pay Yearly to the said A. his Heirs, Executors or Assignes, the Sum of 500 merks Scots Money at two Terms in the Year, &c. beginning the first Term payment, &c. and so forth Yearly and Termly thenceforth, during the space of this present Tack, with Penalty, &c.

A Table

A Table, shewing, how many Years Purchase a Tack or Annuity to endure, for any number of Years under 12 is worth presently, at Interest upon Interest at six per Cent. Shewing also, how to Discount any Tack, with the true Value of the Reversion after any number of Years.

The Explanation and Use of this Table.

Value of the Tack				Value of the Purchase			
Years	Months	Days	Decimal part of a Month	Years	Months	Days	Decimal part of a Month
1	1	1	0	1	1	1	0
1	2	1	0	1	2	1	0
1	3	1	0	1	3	1	0
1	4	1	0	1	4	1	0
1	5	1	0	1	5	1	0
1	6	1	0	1	6	1	0
1	7	1	0	1	7	1	0
1	8	1	0	1	8	1	0
1	9	1	0	1	9	1	0
1	10	1	0	1	10	1	0
1	11	1	0	1	11	1	0
1	12	1	0	1	12	1	0
1	13	1	0	1	13	1	0
1	14	1	0	1	14	1	0
1	15	1	0	1	15	1	0
1	16	1	0	1	16	1	0
1	17	1	0	1	17	1	0
1	18	1	0	1	18	1	0
1	19	1	0	1	19	1	0
1	20	1	0	1	20	1	0
1	21	1	0	1	21	1	0
1	22	1	0	1	22	1	0
1	23	1	0	1	23	1	0
1	24	1	0	1	24	1	0
1	25	1	0	1	25	1	0
1	26	1	0	1	26	1	0
1	27	1	0	1	27	1	0
1	28	1	0	1	28	1	0
1	29	1	0	1	29	1	0
1	30	1	0	1	30	1	0
1	31	1	0	1	31	1	0
1	32	1	0	1	32	1	0

The first Column, towards the left, sheweth the Years of a Tack, and right against it stand the Year, Month, and Decimal part of a Months Purchase, that such a Tack is worth.

Example.

Suppose, a Tack to continue Ten Years, one desires to know the worth of it, in a Sum presently sold down.

Look into the Table for the figure 10, in the Column that stands for the Years of a Tack, and against it in the same line in the three other Columns, you find 7 4 3 which sheweth, such a Tack is worth 7 Years 4 Months and 3 ten parts of a Months Purchase.

Value of the Tack				Value of the Purchase			
Years	Months	Days	Decimal part of a Month	Years	Months	Days	Decimal part of a Month
1	1	1	0	1	1	1	0
1	2	1	0	1	2	1	0
1	3	1	0	1	3	1	0
1	4	1	0	1	4	1	0
1	5	1	0	1	5	1	0
1	6	1	0	1	6	1	0
1	7	1	0	1	7	1	0
1	8	1	0	1	8	1	0
1	9	1	0	1	9	1	0
1	10	1	0	1	10	1	0
1	11	1	0	1	11	1	0
1	12	1	0	1	12	1	0
1	13	1	0	1	13	1	0
1	14	1	0	1	14	1	0
1	15	1	0	1	15	1	0
1	16	1	0	1	16	1	0
1	17	1	0	1	17	1	0
1	18	1	0	1	18	1	0
1	19	1	0	1	19	1	0
1	20	1	0	1	20	1	0
1	21	1	0	1	21	1	0
1	22	1	0	1	22	1	0
1	23	1	0	1	23	1	0
1	24	1	0	1	24	1	0
1	25	1	0	1	25	1	0
1	26	1	0	1	26	1	0
1	27	1	0	1	27	1	0
1	28	1	0	1	28	1	0
1	29	1	0	1	29	1	0
1	30	1	0	1	30	1	0
1	31	1	0	1	31	1	0
1	32	1	0	1	32	1	0

Of Submissions.

BEfore Persons at variance, goe to Law, they are in duty bound to endeavour an Accomodation, in order to which they ought first to confer among themselves, and if that has no effect, through their being wedded to their own opinion, affected to their own Interest, and disdaining to yield any thing to their antagonist: It is proper to call for the Mediation of one or two honest knowing Neighbours, who may Cognosce and Settle these differences. For Terminating which in a more firm manner, so as their Sentence may take effect, they cause write a Submission which is a Mutual agreement of two or more parties at difference, wherein they refer, the ending of their controversy to the Arbitriment and Determination of one or more Arbiters, and Oblige themselves to stand to their Decision.

A Submission is either general, of all Clags, Claims, Questions, Demands, &c. Or special, of a certain Controversy, concerning a particular subject.

As in judgment so in a Submission, there are three parties, Two whereof are these who strive and contend together, and the third is the Arbitrer.

Persons by Law forbidden to convey their Goods, or to bind their Persons, are incapable to enter into a Submission.

An Arbitrer is the Person, who by the Parties in their Submission is elected to decide the Difference and Controversy betwixt them, and he differs from an Arbitrator, who brings the Agreements and Bargains of Parties to an happy issue, determines the Pryce of Goods Bought and Sold and the like. An Arbitrer then is a sort of extraordinary Judge, whose Power and Jurisdiction is owing only to the Mutual Consent and Election of the Parties Contending; And because the matter is committed to his Pleasure and Arbitriment he's called an Arbitrer or Arbitrator, or that it is done by the Mutual Promise or compromise of the Parties, he's termed, *Compromissarius iudex*. His Power is larger than that of any Judge ordinary or extraordinary appointed by a Magistrate, for an Arbitrer may Judge according to his own mind, having God and a good Conscience before his eyes, and that as well in matters respecting Fact,

as these which concern the Law, to the Forms whereof he is not tied; whereas Judges properly so called, are bound to observe the Form, Rule and Order prescribed by Law, whereof they are the Executors: For which cause, Tully said well, *Aliud est iudicium, aliud Arbitrium, nam iudicium est pecunie cerere, Arbitrium incerta; ad iudicium hoc modo venimus ut totam litem aut obtineamus, aut amittamus; at Arbitrium hoc modo adimus, ut neque nihil, neque tantum quantum postulamus, consequamur*, which gave rise to the Proverb. *He that puts his Coat to the Dying, is like to lose a Quarter.*

Arbiters have a most illimited Power, by the *Act of Regulations 1695, Art. 25.* Which prohibits the Lords of Session to sustain Reduction of any Decreet Arbitral, pronounced at the Instance of any of the Submitters upon a signed Submission, for any Cause or Reason whatsoever; except, Corruption, Bribery or Falshood, to be alledged against the Arbitrators.

Seeing then, the Power of Arbiters is so great and uncontrollable, waryness must be used in the choice of them, in which the Parties are to seek for a sufficiency, and an indifference; that they be skilful in the matter Submitted, and free from Malice or Favour to either Party.

Now in every Submission, these three things are to be observed. 1. That it be in Writing, and bind the Parties, their Heirs and Executors, to stand by and observe the Decreet Arbitral. 2. That it give the Arbitrators sufficient Authority, to do all things necessary for ending the controversy, as to appoint time and place of Meeting, Examine Witnesses, and other mean of Probation; and at last to decide in the matter Submitted. 3. That it express a special time betwixt and which the Decision and Sentence is to be pronounced, lest the Parties be long lingred with vain hope and expectation, and that the Arbiters may before the set time pronounce their Decreet: for what they Arbitrate after the time appointed, is void. Yet a Submission *sine die*, lasts for Year and Day after its date.

When the Parties sign the Submission, they put their Name to a blank on the other side, above which Subscription the Arbitrer writes his Decreet, which when Registered by virtue of the Clause of Registration in the Submission, will be warrant for Letters of Horning. The

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The Arbiters are to sign the Submission in token of their Acceptance, after which they could be compelled to pronounce Sentence: And some Submissions have an Obligation upon the Arbiters to Decide betwixt and a certain day, on which Hearing and other compulsory Diligence could be raised.

Follows the Stile of a Submission,

AT———A. for himself, and taking burden upon him for his Partners on the one part, and B. for himself, and taking burden upon him for his Partners on the other part; Have Submitted, and by these presents submit themselves to the amicable Determination and final Sentence Arbitral to be given and pronounced by C. Arbitrer chosen for the part of the said A. And to D. Arbitrer chosen for the part of the said B. anent what shall be found due by the said A. of his Charge in the Collection of his Majesties Customs and Excise at Leith after just Compt and Reckoning, for the three Years immediately preceeding the first of November.———And anent what shall be found due after just Compt and Reckoning by the said B. for his haill Intromissions and Charge of the Money payed in and compted for to him from the several Collectors in Scotland, for the saids three Years, as shall at more length be contained in the Claims to be given in hinc inde by the the said Parties, to the said Arbiters, which are holden as repeated and exprest; with power to the said Arbiters to examine and take Information from the respective Partners or Others concerned; and to call for and consider the Instructions to be given in by both Parties, and to Decide and Determine therein as they shall think fit and just; and give forth their final Sentence and Decreet Arbitral, and insert the same in the Subscribed blank upon the back hereof, betwixt and the———day of———butt delay. With power likeways, to the said Arbiters in case of Variance before that day to choise an Over-man, And whatever the said Arbiters or Over-man in case of Variance betwixt them shall Declare and Determine in the said Matters, and insert in the blank upon the back hereof, betwixt and the day foresaid: Both the said Parties for themselves, and taking burden for their respective Partners, bind and oblige them, their Heirs, Executors and Successors, to stand, abide thereat, underlye, and fulfil the same, butt any Appellation or Reclamation whatsoever, under the pain and penalty of———to be payed by the Party failzier to the other Party, in case of failzie,

by and after performance of what shall be Determined by the Decree Arbitral. And in case the above-named Arbiters, or in case of Variance, the Overseer to be chosen by them, shall not before the 10th of _____ next, Decide and Determine in these Differences; Then and in that case, this present Submission, and all that shall follow thereupon, shall from and after that day be null and void, as if it had never been entered into.

In the case of a Controversy about Lands, The matter of the Submission is Expressed thus. ——— Submits to the Sentence Arbitral to be pronounc'd by C. anent the several pretences to be made by both Parties, to the property of the Lands of D. with Houses, Riggings and Pertinents thereof, lying &c. Conform to the claims to be given in by the said Parties, to the said Arbiters hinc inde thereanent, which are holden as expressed in this present Submission, with Power to the said C. to Decide and Determine, which of the said Parties Rights are best, and most preferable to the property of the foresaid Lands: And to Determine to whom the Property of the same Lands shall belong, and what shall be payed by the Party who gets the Lands, to the other Party in satisfaction of his Claim; and what writs shall be Granted by either of the saids Parties to others thereanent. Likeas the said C. by these presents, accepts the Decision of the foresaid differences in and upon him; And shall pronounce and give forth his final Sentence, and Decree Arbitral in the said matter, and Insert the same in the Subscribed blank upon the back hereof, betwixt and the ——— butt longer delay: And whatever the said C. Declares and Determines, &c.

On the other hand an Arbitration, or Reference to an Arbitrator is in this Forme. I A. do hereby Referr and Submit to B. and C. what shall be given by me to D. upon consideration of his pains taken for me, (or upon any other consideration: Which according to the circumstance of Parties may be specified) And whatever &c. I Bind and Oblige me to pay the same to the said D. accordingly with Penalty, &c. And I consent to the Registration hereof, and of the Determination in the Books of Session, &c.

The Decree Arbitral is the Sentence pronounc'd by the Arbitrator or Arbitrators, one or more, upon the controversy, for ending whereof, they were chosen by the contending Parties. In the Forme of which Sentence, these things are specially to be regarded. 1. That it be made according to the very Submission, touching the thing Compromis'd, and in every circumstance

stance thereof. 2. That it put a final end to the Controversy.
 3. That it appoint either party, to do or give to the other something beneficial, in appearance at least. 4. That the performance be possible and lawful, and attainable by the Party. 5. That nothing enter in to the Decreet, that was not submitted, either exprelly, or by necessar consequence.

The Decreet Arbitral is Written in the Signed Blank on the other side of the Submission; And is in this or the like Style.

WE ——— Judges Arbitrators under-written, with the special Advice and Consent of ——— Odsman and Oversman aftermentioned, &c. Forasmuch as, ——— and ——— on the one and other parts, have submitted themselves to us the saids &c. And in case of Variance betwixt us to &c. Odsman and Oversman equally and indifferently chosen by both the said Parties, aunc all Actions and Questions, and Debates standing betwixt the said Parties, and which either of them lays or may lay to others charges, for whatsoever Compaction or occasion bygone, preceeding the date of the said Submission, conform to their Claim, given in by either of them thereupon: And the said Partier having referred the particulars above and under-written, to the Determination of us the said Judges Arbitrators, with Power to us, to Decide therein: And in case of variance betwixt us by the said ——— Odsman and Oversman above-mentioned, as at morelength is contained in the said Submission written on th back hereof. And we the said Judges Arbitrators having accepted the said matters Debateable upon us. And we being therewith well and rightly advised, and for our better help and supply therein, having taken the Advice and Resolution of the said Odsman and Oversman within and above-named; and after large Hearing, Conference and Communication with both the said Parties thereanent, and consideration of the respective Claims, given in to us by the said Parties. We with the special Advice and Consent of the said ——— Odsman and Oversman above-named, all in one voice, after mature deliberation, having God and a good Conscience before our eyes, have Decerned and Ordained, and by these presents Decern and Ordain in manner following (here Insert the Decerniture, and then say) And this our Decreet and Sentence to all and sundry whom it effeirs, we manifest and make known, and Consents that the same, with the Submission within written be Insert, and Registred &c. &c. &c.

Seeing

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our proposed Method would not allow us to com-
mence with the ancient Order in all Law-Writings, to begin
with what concerns the Church; we shall conclude with a
Call for a Minister, by the Heretors and Elders of a Paroch,
which by Act of Parliament is come in place of the Patron's
Presentation.

A Call to a Minister.

WE the Heretors and Elders of the Parochine of L. being
credibly informed of the Literature, Qualification and good
Conversasion of A. late Minister of the Gospel at B. and of his desire
to continue in the Function of the Ministry within the Kirk of God:
Therefore we have Nominated, Called and Presented, as we by
these presents Nominate, Call and Present, the said A. during all
the days of his Lifetime, to be first Minister of the said Kirk and
Parochine of L. and to the Manse and Gleib, and constant local mo-
dified Stipend belonging thereto; conform to the Decreet of Locality
and Provision of the said Kirk, which is now Vacant by the death of
_____ late Minister thereof; Requesting the Reverend Moderator
and Ministers of the Presbytery of L. to admit and receive the said A.
to be Minister of the foresaid Kirk, and of the foresaid Paroch, and
to the Manse and Gleib thereof, and constant local modified Stipend
belonging thereto; and to Authorise him with a Testimonial of his
Admission to the same in due and competent form as effects. And like-
ways, Requesting the Lords of Council and Session upon sight of this
our Presentation, with the Admission and Institution to follow hereup-
on, to grant Letters of Horning upon a simple Charge of ten days allen-
nerly at the Instance of the said A. for readily answering, obeying,
and making payment to him, his Factor, Servants, and others in his
Name, of the foresaid Stipend and other Duties belonging to the said
Kirk, conform to the Decreet of Locality above-written, and that for
the Crop and Year of God _____ in so far as the Relict and Repre-
sentatives of the said _____ have no Right thereto; and Yearly and
Ternly in all time coming, during his Lifetime, and serving the
Cure at the said Kirk. Registration for Preservation.

It remains, that we give the Form of the Clauses, which are
common to all Writts, viz. The Clause of Registration, and Clause
of Subscription, Date and Witnessing, or Testing the Write.

Of the Clause of Registration.

THe word *Registers* deriv'd from the old French *Gister*, *In lectio reponere*, and signifies the Office, Book, and Roll wherein the Proceedings, Acts and Sentences of any Court are Kept and Recorded. The chief Keeper of all the Records of Scotland, is called *The Clerk of Register*, and by Corruption, *The Clerk Register*.

By the Laws of Scotland, all Executorial Diligence must proceed upon the Sentence of a Judge, which is either Compulsory, as when it proceeds upon a Process or Action intended before the Judge; or it is Voluntary, as in the Registration of private Obligations and other Deeds: And towards obtaining of this Decree, a Procurator must be Employed: So that the Clause of Registration serves, for appointing a Procurator to Compare for the Party obliged, or signer of the Write, before any Competent Judge, and to consent that Decree of Registration may be Interposed, to the end that Letters of Horning, Caption, and other Execution, in form as effects may be obtained thereupon; the Write having this Clause, is delivered to the Clerk of Court who keeps the Principal, and gives out an Extract thereof, which is called a *Decree of Registration*.

When you are about to Register a Write, regard must be had to the Competency of the Judicature, and of the Extent of the Judges Territory; for an Inferiour Judges Decree or Precept, cannot be a Foundation of Diligence to be put to Execution by his own Officers, without the Limits of his Jurisdiction, wherefore the Party against whom Decree of Registration is Extracted, ought to live within that Judges Territory. But if the Diligence proceed *ex deliberatione*, or *per decretum Dominorum Concilii*, because the Jurisdiction of the Lords is universal over all the Leiges, the Diligence that is issued out by their Authority, can be put in Execution in any part of the Kingdom.

Tho a Write may be obligatory and binding without a Clause of Registration, yet is it not so perfect, except it have one, which is three-fold, either for Execution only, or for Preservation only, or for Preservation and Execution, if needful.

A Clause of Registration for Execution is requisite in all Writs and Obligations simple, wherein the performance is not deferred to an uncertain time ; but the Obligation must certainly be fulfilled at the time prefixt in the Write : Such are Bonds of borrowed Money, and the like.

A Clause of Registration for Preservation, has been invented by our Lawyers for the better preserving Writs of Importance in the publick Archives of the Kingdom, where they are more secure than in the Custody or Charter-Chests of private Persons ; and this Clause is in ancient Writs expressed by the words *ad futuram rei memoriam*, and ordinarily adjected to Writs whereupon no Execution is competent and needful : For a Clause of Registration for Execution, operates Preservation as well as this. And the Writs which contain either of these sorts of Registrations, is left in the Register of the Court, and an authentick Extract of the Principal Signed by the Clerk Register, or the Clerk of Court, is delivered to the Party.

By the Act of Parliament 1698, all Probative writs may be Registered in any publick Register competent, as if they did bear a Clause of Registration : And the Principals are to be given back. The designe of this Registration is neither for Execution nor Preservation, but operates only, that the Extract in any civil Process, except in Improbation, is as probative as the principal.

The two Clauses of Registration, for Preservation and Execution if needful, are conjoyn'd and put together in writs of Conveyance, and others, where the principal and direct purpose of Parties is not to Oblige one another, but to transfer Dominion, or terminate Differences. But because, in these writings, there is ordinarily an Obligement of Warrantdice adjected. Therefore in case it be incurred, Execution upon the Decreet of Registration will become needful.

The Clause of a Registration for Execution is thus. *And for the more Security, I Consent, and am Content, that these presents be Insert and Registered in the Books of Council and Session, or any other Judicatory competent, to have the strength of a Decreet of the Judges thereof interposed thereto : That Letters of Horning on six days, and other Execution needful in Form as effects, may pass thereupon, and for that effect, Constitutes ——— my Procurator, In witness whereof &c.*

But

But more briefly thus: *And that these presents may be Registered in the Books of any Judicatory competent, That upon a Decreet of the Judges thereof Letters of Horning on six days, and other Execution in form as effairs, may pass: I Constitute, &c.*

If the days, to which Horning is to be Executed, (the ordinary space being 6, but may be made 10, 20, &c.) be not expressed in the Clause of Registration, the time in Law is interpreted to be 15 days, within which obedience must be given to the Charge.

The Clause of Registration for Preservation only, is in this form. — *Insert and Registered in the Books of Council and Session, or of any other Judicatory competent, therein to remain for Preservation, (or ad futuram rei memoriam) I constitute — my Procurators.*

But the Clause of Registration of real Securities, or Renunciations, which, for publication thereof to the Leiges, are appointed to be Recorded in a special Register, is thus, — *Registered in the Books of Council and Session, or in the general or particular Register of Seafines, Reversions, or in any other Judges books competent, therein to remain, for preservation.*

A Clause of Registration for Preservation and Execution if need be, is thus, — *Therein to remain for Preservation, and if need be, to have the strength of a Decreet of any of the Judges interponed thereto, that Letters of Horning and other Execution in form as effairs may pass thereon, And constitutes. Or thus more briefly, And if need be to have the strength of a Decreet, and to receive all Execution necessary as effairs, And constitutes — my Procurators.*

Of the Subscription of Writs.

THe Clause of Subscription is in the end of every Write, and crowns and perfects all the former; for without it the writing is regarded as an useles peice of waste paper; Wherefore the writ must be signed by the party Granter thereof before two subscribing Witnesses, if the Body of the Paper be not written by the Signer himself; and though holograph Writs signed without Witnesses are Obligatory and Probative, yet they are liable to many Exceptions and Inconveniences.

If the Party cannot write himself, either because he never was taught so to do, or that through supervenient Infirmities, Sicknes, or other Accidents, he is become incapable to write, in that case two Notars and four Witnesses who know the Party, are made use of in Writs of Importance.

If the Granter of the Writ be Pupil, whether he can write or not, he needs not sign; for the subscription of the Tutor alone is sufficient.

Not only the principal Parties, but also the Consenters should sign, and more especially if upon their Consent and Subscription, the strength and effect of the Paper depend; as is the Consent of a Husband and of Curators, to the Deeds done by the Wife and the Minor, tho in other cases the Subscription of the principal Party operates against himself.

By the Act of Parliament 1681, the Name and Designation of the Writer and Witnesses, must of necessity be insert and expressed in the body of the Writ, which is done in the Clause of Subscription, and by the 175 *Act. Parl.* 1593, the Name and Designation of the Writer, is ordained to be insert in the hinder end of the Writ, before inserting of the Witnesses; but by Practice, the Designation of the Writer may be insert with that of the Witnesses.

The various forms of the Clause of Subscription,

In witness whereof I have signed these presents (written by A.) at Edinburgh &c. And this is used albeit a Party sign by two Notars before four Witnesses, quia quod quis per alium facit per se facere videtur.

If the Writ be Holograph, — *In witness whereof I have written and subscribed these presents with my hand at Edinburgh.*

When the Tutor signs for his Pupil, — *In witness whereof I for my self and in name and behalf of my said Pupil, have subscribed these presents.*

When the Writ is granted by Principals and Consenters, — *In witness whereof I with consent foresaid. Or, I and the said Consenters have subscribed these presents. Or in general, In witness whereof we have signed these presents.*

Of the Date and Testing of Writs.

IN Scotland, no paper is Formal and Valid without a date, That is, except the Writing or Obligation express the place where, the day of the Month, and the year of God when the same was Signed by the Partie or Parties; and this date, in all single Writs, such I mean as need only be Signed by one of the Parties Contracters, is expressed after the Clause of Subscription. But in Bipartite or Tripartite Writs, where the Subscription of both Contracters is requisite to make the Contract Formal and

and Valid, the date is at the beginning, as maybe seen in the foregoing examples of Contracts, tho' nevertheless, the same date is relatively expressed after the Clause of Subscription.

If the Write be Signed by the several Subscribers at diverse places or at different days, this must be expressed in the date, tho the respective places and days, which agree to the several Subscribers, is fully expressed in that part, of the Write, which rehearſes the Names and Designations of the Witneſſes, as will be more plain in the following Instances and Examples.

It is always adviſeable, to have Witneſſes to the Parties Subscription, even of Holograph Writs, and it is absolutely neceſſary in Writs not write by the Subscriber, and which the Writer ſets down after the date, in the end of the Paper, or after the Subscription, and this is the laſt Clause of a Writ.

In ſimple Writs, theſe two Clauſes are thus, *In Witneſſ whereof &c. I have Subſcribed theſe preſents at Edinburgh the firſt day of October, in the Year of God 1707, before theſe Witneſſes. A. B. and C. his Servant.*

When there are two Subscribers, who Signe at different places, tho upon the ſame day and before the ſame Witneſſes, you write thus, *At Edinburgh and Leith the firſt day of October 1707. Before theſe Witneſſes, viz. To the Subscription of the ſaid A at Edinburgh, and to the ſubſcription of the ſaid B at Leith, C of D and E. of F.*

If two or moe Subscribers Signe, at the ſame place, but upon different days, and before the ſame Witneſſes, The date and teſting of the Write is thus, *At Edinburgh, the firſt and fifth days of October 1707 ; (Or, when the Months are different, You ſay, the firſt day of October and the fifth day of November 1707, Or again, when the two Subscriptions are not in the ſame Year, you expreſs the date thus, The firſt day of December 1707, and the tenth day of January 1708) before theſe Witneſſes, viz. To the Subscription of the ſaid A. upon the ſaid firſt day of October ; And to the Subscription of the ſaid B. upon the ſaid fifth day of the ſamen Month C. of D. and E. of F.*

If there be different Witneſſes to the two Subscriptions, you expreſs it thus, ——— *Before theſe Witneſſes reſpective, viz. To the Subscription of the ſaid A. C. of D. and E. of F. and to the Subscription of the ſaid B. G. of H. and I. of K.*

When two parties Signe at different places, upon different days, before different Witneſſes, It is thus expreſſed ; *At E-*

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Edinburgh and Berwick, the first day of December 1707, and the
tenth day of January 1708, Before these Witnesses respectively,
viz. To the Subscription of the said A. at Edinburgh the said
first day of December 1707, C. of D. and E. of F. and to the Sub-
scription of the said B. at Berwick, the said tenth day of January
1708. G. of H. and I. of K.

In Contracts, or Bipartite and Tripartite Writs, the date
is at the head of the Write, and is expressed as in the cases
already set down; but the Clause of Subscription is thus,
—— Have Subscribed these presents, Day, Place, Month,
and Year of God above-written, before these Witnesses &c. conform
to the cases already mentioned. But, I think this a better Form
and Stile ——— have Subscribed these presents, at the place or
places, and upon the day (or days) of the Month (or Months) in
the year (or years) of God above rehearsed, before these Witnesses, &c.

If there be a Marginal Note, the same must be Signed; and
the Testing of the Write must bear, that the Signing Witnes-
ses, to the Subscription of the body of the Write, were also
Witnesses to the Subscription of the Marginal Note, thus. —
Before these Witnesses, A. and B. who are also Witnesses (and in
case there be blanks, which are filled up, you say, To the fil-
ling up of the blanks, in the body of the Write, and) To the Sub-
scription of the Marginal Note.

If the Writer be one of the Witnesses, and in the Clause of
Subscription is named and designed Writer, in the Test-
ing he may be designed thus, Before these witnesses A. and B.
Writer hereof.

If the writer of the body of the Writ be not present at the
Subscription, so that another Person fill up the Blanks, and
write the Date and witnesses Names, if he be also a Witness,
you say, ——— B. filler up of the Blanks, and writer of the Date and
witnesses Names. Or if he be not a Witness, after the witnesses
Names you say, The Blanks, Date and witnesses Names being fil-
led up and written by C.

Thus much of the Form and Stile of these Clauses: What
is needful to be notic'd and observ'd in order to the Formali-
ties of Writs, and the Import in Law of their several Clauses,
is referred to my Analytical and Nomological Treatise of
Obligations, Securities and Contingencies.



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 467 \\
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$$\begin{array}{r} 68 \overline{) 5279673} \quad (1545116) \\ \underline{308} \\ 2116 \end{array}$$

$$\begin{array}{r} 2116 \\ 1840 \\ \hline 2764 \\ 2546 \end{array}$$

$$\begin{array}{r} 1883 \\ 1840 \\ \hline 43 \end{array}$$

$$\begin{array}{r} 15450 \\ 368 \\ \hline 120703 \\ 9454 \\ 4425 \\ \hline 599643 \end{array}$$